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Whom We Shall Welcome

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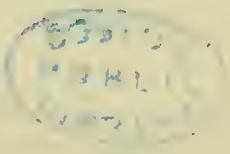
"The bosom of America is
open to receive not only
the Opulent and Respectable
Stranger, but the oppressed
and persecuted of all
Nations And Religions;
whom we shall wellcome
to a participation of all
our rights and previleges,
if by decency and propriety
of conduct they appear to
merit the enjoyment."

Geo. Washington, Dec. 2, 1783, New York, The Writings of George Washington; from the Original Manuscript Sources; 1745–1799. Editor, John C. Fitzpatrick, United States Government Printing Office, Washington, 1938, Vol. XXVII, June 11, 1783, to November 28, 1784, page 254.

Whom We Shall Welcome

REPORT OF THE
PRESIDENT'S COMMISSION
ON IMMIGRATION AND
NATURALIZATION



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THE PRESIDENT'S COMMISSION ON IMMIGRATION AND NATURALIZATION

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EARL G. HARRISON, *Vice Chairman*

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Letter of Transmittal

PRESIDENT'S COMMISSION ON IMMIGRATION AND NATURALIZATION

WASHINGTON, D. C.

January 1, 1953.

DEAR MR. PRESIDENT:

The President's Commission on Immigration and Naturalization submits to you its report pursuant to your request of September 4, 1952, and Executive Order No. 10392.

We believe that the separately printed record of hearings held by the Commission provides information of permanent value to the executive and legislative branches of the Government. The work could not have been done without the wholehearted cooperation of many indivduals, organizations, and institutions interested in the problem.

The Commission hopes that its study and recommendations will contribute to public understanding of this vital matter, and assist the Congress in the consideration of legislation to improve the immigration and naturalization laws and policies of the United States.

Respectfully submitted.

THOMAS G. FINUCANE

ADRIAN S. FISHER

THADDEUS F. GULLIXSON

Msgr. JOHN O'GRADY

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EARL G. HARRISON
Vice Chairman

PHILIP B. PERLMAN
Chairman

HARRY N. ROSENFIELD
Executive Director

The President
The White House
Washington, D. C.

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Introduction

The President of the United States established the President's Commission on Immigration and Naturalization on September 4, 1952, and required it to make a final report not later than January 1, 1953. He directed the Commission "to study and evaluate the immigration and naturalization policies of the United States" and to make recommendations "for such legislative, administrative, or other action as in its opinion may be desirable in the interest of the economy, security, and responsibilities of this country."

This Report is the result of the Commission's study, and contains the recommendations for an immigration policy best suited, in its judgment, to the interests, needs, and security of the United States. The Commission's functions under the Executive Order are now completed, and it ceases to exist 30 days after this Report is submitted to the President.

It is noteworthy that all the major religious faiths of America urged the President to appoint a commission for this general purpose. The General Board of the National Council of the Churches of Christ in the United States of America issued a statement to this effect in March 1952. In August 1952, the American Council of Voluntary Agencies for Foreign Service, through its Committee on Displaced Persons and Refugees, urged the creation of a commission to study the basic assumptions of our immigration policy. Its statement was signed by representatives of the War Relief Services of the National Catholic Welfare Conference, the Church World Service of the National Council of the Churches of Christ, the United Service for New Americans, and the National Lutheran Council. And in September 1952, the General Convention of the Protestant Episcopal Church urged the appointment of a commission to study the need for emergency refugee legislation and "to review our permanent immigration policy and its basic assumptions."

It became evident during the debate in Congress and public discussions after the passage June 27, 1952, of the Immigration and Nationality Act of 1952 (generally known as the McCarran-Walter Act) over the President's veto, that the new legislation does not adequately solve immigration and naturalization problems, and that the codification it contains fails to embody principles worthy of this country.

Immigration and nationality law in the United States should per-

form two functions. First, it should regulate the admission and naturalization of aliens in the best interests of the United States. Second, it should properly reflect the traditions and fundamental ideals of the American people in determining **"whom we shall welcome to a participation of all our rights and privileges."**

This Report discusses the manner in which the law presently regulates the admission and naturalization of aliens, recommends revisions, and explains why the Commission believes these revisions better serve the welfare and security of the United States.

As a separate document, the Judiciary Committee of the House of Representatives has published the extensive record of the 30 sessions of hearings held by the Commission in 11 cities in various sections of the country. The record shows what a substantial and representative cross section of the American people believe to be the best immigration policy for this country.

It is appropriate to examine the second function of immigration policy, the reflection of American traditions and ideals. The Commission would state them as follows:

We Hold These Truths . . .

1. America was founded upon the principle that all men are created equal, that differences of race, color, religion, or national origin should not be used to deny equal treatment or equal opportunity.

Americans have regarded such doctrines as self-evident since the Declaration of Independence.

The immigration law is a key to whether Americans today believe in the essential worth and dignity of the individual human being. It is a clue to whether we really believe that all people are entitled to those "unalienable rights" for the preservation of which our nation was created. It indicates the degree of American humanitarianism. It is a gauge of our faithfulness to the high moral and spiritual principles of our founding fathers—to whom people, as the children of God, were the most important resources of a free nation.

2. America historically has been the haven for the oppressed of other lands.

The immigration law is an index of the extent of our acceptance of the principle that tyranny is forever abhorrent and that its victims should always find asylum in the land of the free. It tests whether we continue to believe that the home of the brave should offer a promise of opportunity to people courageous enough to leave their ancestral homelands, to search for liberty. It is a measure of our fidelity to the doctrine upon which this country was founded, the right

of free men to freedom of movement. The immigration law discloses whether Americans still concur in George Washington's challenge:

". . . to bigotry no sanction, to persecution no assistance."

3. American national unity has been achieved without national uniformity.

The immigration law demonstrates whether we abide by the principle that the individual should be free of regimentation. It attests whether we still respect differences of opinion and the right to disagree with the prevailing ideas of the majority, and whether we still welcome new knowledge, new ideas, and new people. It reveals the strength or weakness of our convictions that democracy is the best philosophy and form of government.

4. Americans have believed in fair treatment for all.

The immigration law is a yardstick of our approval of fair play. It is a challenge to the tradition that American law and its administration must be reasonable, fair, and humane. It betokens the current status of the doctrine of equal justice for all, immigrant or native.

5. America's philosophy has always been one of faith in our future and belief in progress.

The immigration law indicates our outlook on the future of America. Those who have faith in a dynamic, expanding, and strong American economy see immigration not only as a part of our heritage but also as essential to our future. On the other hand, those who regard the future of America in terms of a static economy and a maximum population, view immigration with alarm.

6. American foreign policy seeks peace and freedom, mutual understanding and a high standard of living for ourselves and our world neighbors.

The immigration law is an image in which other nations see us. It tells them how we really feel about them and their problems, and not how we say we do. It is also an expression of the sincerity of our confidence in ourselves and our institutions. An immigration law which reflects fear and insecurity makes a hollow mockery of confident world leadership. Immigration policy is an important and revealing aspect of our foreign policy.

No doubt our ideals have not been honored in America at every moment and in every respect. But they have certainly governed our thought and actions over the 175 years of the nation's life. They will continue to do so. The Commission believes that these traditions and ideals should be basic to our immigration laws. Insofar as our immigration policy violates these American traditions and ideals, it weakens the foundations of our liberty and undermines our security and

well being. It also damages our position of leadership and destroys the esteem and good reputation the United States has earned in the past.

Other considerations must also condition our immigration laws, such as the protection and preservation of our security against the dangerous and the diseased. The Commission emphasizes that one of its major concerns in applying these principles has been the necessity for the immigration law to safeguard the welfare and security of the United States. However, it is convinced that a full regard for protecting our national security does not require a hostile attitude toward immigration; on the contrary, it believes that full security can be achieved only with a positive immigration policy based not on fears but on faith in people and in the future of a democratic and free United States.

What We Believe

The Commission believes that immigration has given strength to this country not only in manpower, new industries, inventiveness, and prosperity, but also in new ideas and new culture. Immigrants have supplied a continuous flow of creative abilities and ideas that have enriched our nation.

The Commission believes that an outstanding characteristic of the United States is its great cultural diversity within an overriding national unity. The American story proves, if proof were needed, that such differences do not mean the existence of superior and inferior classes.

The Commission believes that it is contrary to the American spirit to view every alien with suspicion and hostility. The Commission is convinced that the American people will not knowingly tolerate immigration laws that reflect distrust, discrimination, and dangerous isolationism. The Commission believes that the American people are entitled to a positive, not a negative immigration policy, and that they desire a law geared to the forward-looking objectives of a great world power.

The Commission believes that although immigrants need the United States, it is also true that the United States needs immigrants, not only for its domestic or foreign benefit, but also to retain, reinvigorate and strengthen the American spirit.

The Commission believes that we cannot be true to the democratic faith of our own Declaration of Independence in the equality of all men, and at the same time pass immigration laws which discriminate among people because of national origin, race, color, or creed. We cannot continue to bask in the glory of an ancient and honorable tradition of providing haven to the oppressed, and belie that tradition by

ignoble and ungenerous immigration laws. We cannot develop an effective foreign policy if our immigration laws negate our role of world leadership. We cannot defend civil rights in principle, and deny them in our immigration laws and practice. We cannot boast of our magnificent system of law, and enact immigration legislation which violates decent principles of legal protection.

Nor can we ourselves really believe, or persuade others to think that we believe, that the United States is a dynamic, expanding, and prosperous country if our immigration law is based upon a fear of catastrophe rather than a promise and hope for greater days ahead.

The Commission believes that our present immigration laws—

flout fundamental American traditions and ideals,
display a lack of faith in America's future,
damage American prestige and position among other nations,
ignore the lessons of the American way of life.

The Commission believes that laws which fail to reflect the American spirit must sooner or later disappear from the statute books.

The Commission believes that our present immigration law should be completely rewritten.

Part I

AMERICANS SPEAK ON IMMIGRATION

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The Commission's Hearings

Immediately after the President issued Executive Order No. 10392 dated September 4, 1952, and his public statement of the same date, naming the chairman and members of the Commission and defining its duties and powers, work of organization began. It became evident that if the Commission was to comply with the directive to make a final report not later than January 1, 1953, steps had to be taken promptly to gather the necessary information in different sections of the country. It was obviously impossible to arrange for large numbers of people to go to Washington, to express their views orally and in writing, based upon experience and knowledge of the operation of immigration and naturalization laws, regulations and policies. The Commission decided to visit key places throughout the country, and hold public hearings at which any interested person could appear and make a statement.

In order to assure attendance of persons especially qualified to discuss existing laws and policies, and those about to become effective, the Commission invited individuals and agencies, with information relevant to the economic, social and other implications of past, current and future immigration laws and policies of the nation. This was done by specific invitations and public announcements. In addition to those invited, all who requested to be heard were scheduled within the time available.

At the time the Commission began its work, the laws on the subject enacted prior to the Eighty-second Congress were still in effect. The codification embodied in the Immigration and Nationality Act of 1952, Public Law 414, 66 Stat. 163 (McCarran-Walter Act, June 27, 1952), had been passed over the President's veto, but was not to take effect, except provisions relating to the establishment of a joint congressional committee, until December 24, 1952.

SCHEDULE OF HEARINGS

The task of communicating with individuals and organizations throughout the country, and of arranging a schedule of hearings was a difficult one, achieved under great pressure because of the immediate necessity of equipping working quarters and selecting a competent

staff and because of the limited time for the project. The Commission carried out the following schedule of hearings: New York, September 30 and October 1; Boston, October 2; Cleveland, October 6; Detroit, October 7; Chicago, October 8 and 9; St. Paul, October 10; St. Louis, October 11; San Francisco, October 14; Los Angeles, October 15; Atlanta, October 17; and Washington, D. C., October 27, 28, and 29. This added up to 15 days of hearings in eleven different cities from the Atlantic to the Pacific coasts. Invitations to appear before the Commission were also issued to persons and organizations, public and private, in other cities and areas in the same section of the country in which each of the hearings was held. The Appendix to this Report contains the names of people who testified, and the organizations represented, at the Commission's hearings, or who submitted statements to the Commission. In addition, the Commission held a number of executive conferences with Federal officials entrusted with the administration of immigration and security programs of the United States.

The Commission made a studied effort to obtain statements on the subject, oral and written, from all points of view. In view of the fact that a Presidential campaign was then in progress, the Commission refrained from inviting anyone who was a candidate for Federal office, the sole exception being in the case of Congressman Francis E. Walter, cosponsor of the Immigration and Nationality Act of 1952. Senator Pat McCarran and members of the staff of the Senate Committee on the Judiciary were also invited. However, whenever any member of the House of Representatives or Senate of the United States requested leave to appear, the request was granted.

Considering the brief notice and opportunity for preparation, the wealth of material submitted to the Commission, much of it of great importance and permanent value, is almost incredible. Fortunately, through the cooperation of Congressman Emanuel Celler, of New York, Chairman of the Committee on the Judiciary of the House of Representatives, it has been possible to print a record of the hearings, containing the statements made during the hearings and those submitted subsequently. Because of its length, the record of hearings could not be included in this Report. It contains oral testimony on the subject given by some 400 persons and written statements by approximately 234 others, or a total of 634 statements, some expressing the views of individuals, others made in official capacities on behalf of agencies of the Federal, State, and municipal governments, and others on behalf of many religious, welfare, political, and other private organizations. It comprises some 2,100 pages, and may be obtained from the Superintendent of Documents, Washington, D. C.

In beginning the task assigned to it by the President, the Commis-

sion was confronted by certain facts having an important bearing on the feasibility of efforts at this time to evaluate the national policies with respect to immigration and naturalization. They may be stated as follows:

1. The passage by both branches of Congress of the Immigration and Nationality Act of 1952, and its repassage by more than a two-thirds vote in each House over the President's veto message, which gave forceful expression to criticisms of particular provisions of the bill.

2. The failure of the Eighty-second Congress to take action with respect to S. 3109 (introduced by Senator Hendrickson) or H. R. 7376 (introduced by Congressman Celler) providing for the issuance during a period of 3 years of 300,000 special nonquota immigration visas to certain refugees, persons of German ethnic origin, and natives of Italy, Greece, and the Netherlands. These bills were drafted to comply with a message urging such legislation sent by President Truman to Congress, March 24, 1952.

The Immigration and Nationality Act of 1952 codifies for the first time the many pieces of immigration legislation enacted since 1917, and to that extent supplies a document long needed. In addition, however, to the reenactment of existing provisions, some of which had been the subject of controversy, the new law contains revisions and amendments suggested during the legislative hearings and by the staffs of the Congressional Committees. Some of these changes liberalized the immigration laws, but many of the others resulted in new restrictions, both in substantive law and in administrative procedures. The President's veto message, and the subsequent debates on the floor of the Senate and House, had the effect of arousing more general interest in the subject than had been previously shown. The appointment of this Commission, and the announcement of its plan to go to the country for information as to the effect of immigration laws, procedures, and policies on the economic, social, and other aspects of life in the United States gave opportunity for expression to an increasing public concern.

NATION-WIDE INTEREST

The Commission was to find, as it moved from city to city and from region to region, that religious, welfare, and other organizations had begun to hold discussions not only within their own membership but with each other on important features of the act of 1952, in an attempt to crystallize their views on the question as to whether the new law is adequate to meet the grave and complex problems involved. Renewed consideration of such matters seemed to be prompted by a

belief that the United States had not yet fulfilled its obligations to suffering humanity: that the displaced-persons program, under which nearly 400,000 persons had been brought to the United States from Europe had been a great success, but that existing emergencies abroad demanded further efforts in behalf of refugees, expellees, escapees, remaining displaced persons, relatives of those who had reached safety in the United States, and other categories of people whose living conditions and constant dangers are a reproach to our civilization.

At first there was a disposition by some to postpone any effort to arrive at conclusions on long-range immigration policies—especially in view of the enactment of the act of 1952, and the fact that there was no practical experience under its administration—and to concentrate on legislation to meet the emergency situation, such as proposed in the President's Message of March 24, 1952. This attitude gave way to suggestions by representatives of the largest and most important organizations for a new and different set of permanent policies. And this attitude was buttressed by the view that the basic principles of the act of 1952 are the same as those that existed in the legislation it superseded, and that, therefore, no additional experience with such legislation was needed in order to provide sufficient basis for informed opinions.

In addition, members of State Displaced Persons Commissions or Committees and their staffs, and the officials of various religious and welfare organizations had been engaged, over a period of years, in assisting in the reception, resettlement, and supervision of the nearly 400,000 persons who were brought to the United States under the displaced-persons program. Their knowledge of the current results of that project, derived through their contact with these immigrants, was made available to this Commission. The Governors of 36 States appointed State Displaced Persons Commissions or Committees and many of these agencies are still active as this report is being prepared, although their activities at present are reduced largely to problems incident to supervising or recording the results of the integration of the newcomers into life in the United States.

LEADERS SPEAK

The New York sessions set the tone of the hearings. It became evident at once that religious, civic and welfare organizations of national and even world-wide importance were tremendously interested in the subject matter, and in the task assigned to the Commission. They welcomed the opportunity to be heard, to record their views, and to cooperate in any effort to arrive at common understandings and a common program for consideration by the Commission, by the President, and eventually by the Congress.

The very first person to appear before the Commission was the Director of Field Operations for the Refugee Service of the World Council of Churches with headquarters in Geneva, Switzerland. He had returned but two days before from Europe, and during the year had visited and studied refugee problems in the Middle East and Far East. The Council is made up of the Protestant and Orthodox churches of the world, some 160 major denominations. He was followed in New York and elsewhere by representatives of Protestant, Catholic, and Jewish charitable and humanitarian organizations; by scholars who had done research in population problems and in related fields; by scientists, educators and those engaged in various phases of social work; by public officials whose experience and knowledge enabled them to speak with authority; by representatives of agriculture, business and labor; by professors of law and political science; by lawyers specializing in immigration cases; by representatives of various nationality groups whose roots lay in southern and eastern Europe, and in Asiatic countries, or closer at home, in the West Indies; by representatives of organizations especially interested in foreign affairs; by representatives of various sectarian and nonsectarian bodies engaged in activities concerned directly and indirectly with immigration; by representatives of various types of educational institutions, such as universities and art museums; by representatives or members of political parties, and organizations interested in political and social and economic issues; by representatives of business enterprises with interests abroad and whose operations are affected by immigration laws; and by representatives of veterans, patriotic and civic organizations and others especially interested in questions related to the protection of American freedoms, liberties and privileges. Some appeared as individuals, and others were authorized to speak for groups and organizations, public and private. All interests in the United States affected by the provisions and administration of immigration laws were given an opportunity to record their views on the problem assigned to the Commission for study and report.

The Commission was surprised to learn of the widespread and rather determined opposition to the act of 1952. This is all the more amazing in light of its recent passage over the President's veto, and especially because it had not even taken effect at the time of the hearings. In addition, it is fair to say that approval of the new law was voiced by comparatively few, and that in practically all such instances the favorable opinions were not supported by factual information.

The dominant theme of those who appeared to testify or file statements was criticism of the act of 1952. Some objected to specific aspects, but most witnesses opposed the basic theories of the new law.

Perhaps the most eloquent pleas to the Commission for recommendations for changes in the law were made by those who came fortified and inspired by actual experience with the displaced-persons program. It should not be understood that enthusiasm for displaced persons was unanimous in all sections of the country, or that no instances were mentioned of displaced persons who either were unappreciative of the efforts in their behalf or were mentally or physically unable to make a rapid adjustment to conditions in this country. There were, of course, a number of such instances. It was stated, for example, that some who were believed to be farmers, and who were resettled in farming communities, did not possess the necessary qualifications, and eventually drifted to the large cities, where they had opportunities to locate among people of the same nationality groups. And there were other criticisms. But the weight of testimony made it clear that, by reason of the displaced-persons program, the United States was enabled to make a substantial contribution to the cause of humanity, at the same time gaining for itself a large group of capable, hard-working, intelligent and honest people, whose prompt integration into the economic fabric of the nation is proving an asset of incalculable value.

Along with those ready for work on the farms and in the factories came many possessing special skills, and those trained in the arts and sciences. These were the people who had come from camps in Europe, or from other temporary quarters in which they had been enabled to exist until some permanent arrangement could be made. These were the victims of the wars and the aftermath of wars, uprooted from their homes and tossed back and forth as the armies fought and diplomats wrangled. These were the refugees from slavery and death, the expellees from the land of birth or home, the escapees from the other side of the Iron Curtain, the people robbed of all they owned, the survivors of once happy families, tortured in body and spirit, and set adrift or herded together to await either death or whatever form of rescue may be provided by such of the free peoples as have the means and the will to respond to the call of despairing human beings. Those who were brought to this country were among those who had survived the severest hardships. They came, most of them strong and brave, to begin life in a new and strange world.

The story of their willingness to accept whatever fate has in store, and the almost overnight success attained by many in the United States, makes one of the most remarkable pages of current history. Handicapped by differences in language and customs, and even dress; by many other difficulties inherent in such a transition, they nevertheless have progressed as a group far beyond the expectations of those who advocated the passage of the Displaced Persons Act of 1948.

They have been absorbed by agriculture and by industry; they are in colleges and universities, engaged in teaching or research; an astounding proportion of the younger men are already in the armed services of this country, and the economic success of these people considered together is proved by the fact that, according to the Displaced Persons Commission, those who came under the displaced persons program, from October 1948 to August 1952, at a cost to the Federal Government of some $19,000,000 have already paid in Federal income taxes alone more than three times that sum. That progress is slower for some, on account of age and other circumstances, is evidenced by the narrative told the Commission by a minister in a midwest church, the present janitor of which was formerly the head of the educational system of an entire country in eastern Europe. But this displaced person, the author of books on educational subjects in his native land, does not seem discouraged, and doubtless will eventually find an occupation better suited to his abilities.

It is possible to begin to evaluate, not only what has been done for these people, but what they have done within a short space of time for the people of our country. And such information is relevant to any consideration of the problem of future immigration. The displaced persons program brought to the United States: Armenians, Czechoslovakians, Estonians, Greeks, Hungarians, Italians, Latvians, Lithuanians, Poles, Russian refugees, Ukrainians, ethnic Germans, nationals of the Balkans, and others. Individuals and representatives of organizations drawn into the project testified to their admiration for the ability and energy of the immigrants, and for the rapidly acquired devotion and loyalty to this country. It is not too much to say that the knowledge and experience gained by contact with the newcomers have served to break down barriers among our own people.

MOVING TOWARD AGREEMENT

The Commission learned that the necessity for exchanging information resulting from actual experiences with resettlement of these immigrants was the moving force through which divergent views were being debated and adjusted. The nation's greatest and most powerful groups in welfare activities were reaching agreements on vital issues within their own organizations, and with each other.

Indisputable evidence of this was given by the circumstance that leading Protestant, Catholic, and Jewish organizations criticized the act of 1952 for similar reasons; and that, in some places, a single representative was authorized to speak for many lay and religious organizations of different denominations. For example, at the Boston hearings, a single representative from New Haven, Conn., testified on

behalf of the New Haven Council of Protestant Churches; the New Haven Jewish Community Council; the Italian-American War Veterans; the New Haven branch of the National Association for the Advancement of Colored People, and the Italian newspaper "New Haven."

During the Cleveland hearings a delegation of three persons from Pittsburgh appeared. Two of them, including a Lutheran clergyman, spoke for the American Service Institute of Allegheny County, Pa.; the social and civic agencies in Pittsburgh and Allegheny County; the American-Bulgarian League; Catholic Slovak Brotherhood; Council of Jewish Women; Croatian Fraternal Union; Federation of Jewish Philanthropies and United Jewish Fund; Greater Beneficial Union of Pittsburgh; Jewish Family and Children's Service; Lutheran Service Society; Serb National Federation; Verhovay Association; and the Jewish Community Relations Council. Another witness at the Cleveland hearings was a person from Cincinnati who brought letters from the Director of the Catholic Charities of Cincinnati, and from the Executive Secretary of the Council of Churches of Greater Cincinnati, and who appeared on behalf of those organizations and the Citizenship Council of Cincinnati, the Church Federation, and the Jewish Community Council of Cincinnati. One person came to the Cleveland hearing from Buffalo, N. Y., authorized to speak for eight different organizations: The Board of Community Relations of the City of Buffalo; Council of Social Agencies; Diocesan Resettlement Committee of Catholic Charities; Labor Committee to Combat Intolerance; Anti-Defamation League; Council of Churches; Jewish Federation for Social Service; and the International Institute.

To the hearing in St. Paul came a Methodist minister from Austin, Minn., authorized to speak for his own group and for the Jewish group in that community, and also the packing house labor union there. In Atlanta, Ga., the Commission heard from the chaplain and head of the Department of Religion at the University of Georgia, Athens, Ga., who presented a statement on behalf of seven religious leaders in Athens—five Protestant, one Catholic, and one Jewish. To the same hearing came the Director of the Archdiocesan Resettlement Bureau, of New Orleans, La., who was also a member of the State Committee on Displaced Persons and the New Orleans Resettlement Committee. He submitted a joint statement of views opposing basic policies of the immigration law, signed by six representatives of "broad segments of religious and social life in metropolitan New Orleans," including the Minister of the First Unitarian Church; the chairman of the Department of Civil Affairs of the New Orleans Council of Churches; the president of the New Orleans Ministerial Union; the president of the New Orleans section of the

National Council of Jewish Women; a representative of the Catholic Committee of the South; and the Director of the Archdiocesan Resettlement Bureau.

These are some of the instances indicating increasing unity of study and thought throughout the country on problems relating to immigration and naturalization. They indicate a trend of the greatest possible importance toward the growth of cooperation and good will among the people of the United States.

NATIONAL LEADERS

The record discloses other highly interesting developments. For example, a group of ten of the foremost executives of Protestant organizations of many denominations, appeared at the Washington hearings to urge the Commission to recommend the adoption of new immigration policies. The group made a joint presentation of views, with the Director of Immigration Services, Department of Church World Service, National Council of Churches of Christ, as the chief spokesman, and with supporting statements from those who accompanied him. Among them were the Executive Director of the Department of International Good Will and other officials of the National Council of Churches of Christ; the Executive Secretary of the Committee on Displaced Persons of the Presbyterian Church; the Director of the Department of Mutual Aid, Brethren Service Commission; and the Executive Director of the Baptist Joint Committee on Public Affairs, representing the Baptist World Alliance which includes the Southern Baptist Convention, not a constituent of the National Council. The impressive statements made by these and others, including a representative of the National Lutheran Council, followed those of similar authority and importance made there and at the preceding hearings throughout the country. At the Washington hearings the Commission also heard the Executive Director of the War Relief Services of the National Catholic Welfare Conference, the Director of the Bureau of Immigration of the National Catholic Welfare Conference, and leading figures of various Jewish organizations devoted to activities on behalf of immigrants.

Testimony was also presented by Cabinet officers, other leading public officials, important representatives of agriculture, business, and labor, spokesmen for bar associations and for various national scientific, welfare, civic, patriotic, veterans, and other interested organizations. The thoughtful and informed opinions voiced by those with personal experience in the matter, and by leaders in professional fields, interested, for a variety of reasons, in the impact of the immigration and naturalization laws and regulations on the economic, social, and cultural life of the United States, as well as the effect on

our relationships in the family of nations, convinced the Commission of the necessity for sweeping changes in immigration policies.

PROS AND CONS

It seems clear that those who took part in the discussions before the Commission, or who submitted written views, represented a large segment of public opinion. And it is equally clear that by far the greater number of those who expressed views to the Commission are in agreement that the Act of 1952 is not based upon sound fundamental principles, and that, although it did work some improvements, the Act continued and enlarged many existing discriminations, and inaugurated new and serious inequities.

The sentiment for prompt legislative action was expressed by a leading Protestant official in these words:

> We do feel very strongly that the law placed upon the statute books in the last session of Congress is an affront to the conscience of the American people.

Comparatively few of the organizations and individuals appearing before the Commission were in favor of the act of 1952. However well-intentioned, the statements of approval were generally without documentation of any sort, and were seemingly the result either of special benefits conferred by that law or of emotion and deep-rooted fears and prejudices. Some, admitting we are a nation of immigrants, expressed the opinion that we had not yet properly digested or integrated many of the later arrivals into our way of life; that immigration should now be kept at a minimum or eliminated; that eventually the country would not be able to support an increase in population due to immigration; that increases in the number of immigrants now authorized would invite unemployment, multiply the hazards to security, have an adverse effect on the national economy, and be productive of other evils and dangers. And there were those who think that, although discriminations against southern and eastern Europeans might be eliminated, immigration should be largely limited to Europeans, on the ground that this nation owes its cultural, social and economic concepts and traditions to European civilization; and that people of other races and religions cannot be assimilated in any helpful degree.

This does not mean, of course, that no arguments in favor of the act of 1952, supported by objective study of relevant facts, exist. The fact that the law was enacted by more than a two-thirds vote in both houses of Congress over the President's veto would negate such an idea. But it is also true that no arguments sufficient to meet the overwhelming weight of evidence against the desirability of much of the act of 1952 were given to the Commission. Likewise, the number of those who appeared in opposition to the act of 1952, and who rep-

resented organizations with vast memberships adding up to many tens of millions, was large enough to warrant the conclusion that they, and not the others, accurately expressed the sentiments of the American people.

GENERAL CONSENSUS

It should be emphasized again that those who oppose the act of 1952 do not entirely agree on all their reasons, nor on what should be substituted in its place. Some individuals and groups are especially interested in particular provisions which they find detrimental, and have concentrated their attention on those, to the exclusion of others. It is possible, however, to enumerate certain basic policies urged by practically all of those opposed to the act of 1952, as shown by the statements, oral and written, made to the Commission.

They may be summarized as follows:

(1) The national origins quota system should be abolished.

(2) There should be an over-all maximum of annual quota immigration to this country. The determination of the total number of quota immigrants permitted to enter during any year should reflect the needs and capacity for absorption of the United States. That number, under present conditions, should be approximately 250,000.

(3) The allocations within this annual quota should be designed to meet emergency situations of great hardship abroad, such as continued distress and suffering among refugees, expellees, escapees, displaced persons and other victims of communism and other forms of totalitarianism, overpopulation, and the special and general needs of the United States.

These are the most important of the proposed policies and provisions affecting the sources and amount of immigration, resulting from the information submitted to the Commission. There is a strong and ever-increasing sentiment against the continuation of a quota system based on national origins. The arguments against it generally, and as it is written into the act of 1952, are that it embodies principles inconsistent with the Declaration of Independence, the Bill of Rights of the Constitution of the United States, and the institutions of government which have made our nation strong and great and the hope of free peoples everywhere. Moreover, it is argued, the national origins quota system is based on unsound theories, long since proved invalid—fallacies that are becoming more and more dangerous in a troubled world where colonial empires are rapidly disappearing and national pride is strengthening into demands for national independence.

The national origins quota system is criticized on the ground that it is based on a concept of biologically distinct races, and also on the theory that some races are superior to others. The act of 1952, it was said, promotes a claim of Nordic supremacy, discriminates in favor of the nations of Western and Northern Europe, especially Great Britain and Ireland, and against the nations of Southern and Eastern Europe, the Near East, and Asia. It was argued that laws which deny the inherent dignity and worth of the individual, which deny the equality of man, and which embody discriminations based on race, creed, color, and national origin have no place on our statute books, and are a denial of all we profess to be and believe. Such laws, it was contended, are detrimental to our foreign policies, are the source of much antagonism and bitterness against us, impair our relationships with other nations, and leave us prey to damaging propaganda by those who promote an ideology that would substitute a police state for individual freedoms.

NATIONAL ORIGINS QUOTA SYSTEM

The national origins quota system purports to fix immigration quotas on the basis of the national origins of our population. But the act does not do this. It uses the national origins of the population of 1920, not of 1950. It excludes from consideration Negroes, American Indians and other non-white people. Thus, it fails to take into account the national origins of the current population.

Complaint was made that the assignment of quotas on such a basis disregarded the fact that the nations receiving the largest quotas did not use them. Although the permissible total quota was approximately 154,000 annually, during the last 20 years an average of but 54,095 quota numbers were used annually. Immigration fell to a trickle during World War II, and this helped to bring down the 20-year average. But in the other years during that period, the national origins quota system alone has held normal immigration to a figure ranging annually from one-third to a little over one-half of the total authorized.

It was argued to the Commission that if it was thought in 1924, when the quota system was enacted, that approximately 154,000 immigrants annually was a reasonable amount, such a total is unrealistic today, in view of the changed conditions, our greatly expanded economy, and our need for additional manpower. Many of the witnesses urged the Commission as a minimum to recommend legislation under which unused quotas would be redistributed to the nations with long waiting lists. Practically all who favored changes in existing laws asked that action be taken to cancel the "mortgages" on annual quotas—the provision in the Displaced Persons Act of 1948,

as amended, under which the displaced persons already admitted are charged against 50 percent of future quotas, in one instance to the year 2274.

The Commission was repeatedly told that the national origins quota system is the product of fear—fear of strange people, languages and customs, and unfounded belief that people of western and northern Europe and their descendants make better citizens than immigrants from other areas. The proud record of immigrants from those other areas, in time of peace as well as war, was cited as proof that the United States has nothing to fear from the repeal of policies which have been harmful at home, and which have created enemies abroad. The burden of the discussion on this phase of the problem was to the effect that we can no longer afford to indulge ourselves in policies based on mistaken theories, themselves inconsistent with the principles we preach.

Great emphasis was placed, in opposition to the national origins system, on the fact that it is inflexible and does not allow room for consideration of the conditions under which more than 10 million persons, refugees, expellees, escapees, and displaced persons of various categories, are living in the Europe of today. It was agreed that the United States alone cannot solve this problem. But many insisted that some additional action is imperative, and promptly, to encourage other nations in a position to help, and to give some hope to desperate human beings, innocent victims of totalitarian lust for power.

OTHER ACTION NEEDED

Earnest pleas have been made to the Commission to recommend special programs for the reception and care, as well as immigration, of escapees—those who break through the Iron Curtain and reach what for them is the promised land. Unfortunately, in too many instances the promise is found to be illusory, the Commission was told. No adequate provision for them has yet been made. The failure of the free nations adequately to care for those who risk their lives for freedom is a powerful propaganda weapon in the hands of the Communists.

There was unanimous agreement that as to all immigrants, no matter what their race or creed or color or national origin, stringent security measures should be enforced. Precautions against the admission of subversives, criminals, or other undesirables were favored as were safeguards on health and other such grounds.

Powerful appeals were made to the Commission for recommendations for prompt action to relieve the distress caused by overpopulation, and by great numbers of refugees, expellees, escapees, and others who live in and out of camps, without hope and without pros-

pects for the future, unless rescued through the mercy of their more fortunate fellow men. It was suggested that provision should be made to accept a maximum of 100,000 of such persons annually, at least for a period of 3 years, and that this number should be included in an over-all maximum of 250,000 annually for a like period of time.

The Commission was asked to recommend that admissions be permitted on a family basis, to avoid situations where the breadwinners on this side of the ocean are unable to bring their closest relatives to join them, and are separated indefinitely. The heartbreak caused by these separations, and the resulting futility of efforts to restore well ordered family life, is incalculable, besides increasing instead of lessening the burden on the nations in whose economic strength we have a stake.

The Commission heard much discussion as to the size of the over-all annual quota. Various figures were suggested, and, in order to obtain a documented basis for a recommendation, the Commission sought advice from scientists, from public officials, from census experts, from those experienced in labor, agricultural and industrial fields, and from others whose knowledge and experience would shed light on the subject. The result is set forth in the record of hearings.

The attention of the Commission was directed to the provisions of the act of 1952 for the determination of quota areas within the Asia-Pacific triangle, and for the limitation of quotas assigned to colonies or other dependent areas of a governing country. These provisions, it was suggested, have the effect of deliberately discriminating on account of race and color to such an extent as practically to deny all immigration, except for a token amount, to the people in the areas described. The Commission was told for example, that the Jamaicans, formerly within the quota assigned to Great Britain, are restricted by the device of treating colonies separately, to a quota of 100 annually, instead of the approximately 1,000 who have been arriving annually, a reduction of 90 percent. The Japanese and Chinese, in whose behalf the naturalization laws were liberalized, are also given a negligible quota.

The Commission was told that the new law is a mixture of discriminations based on nationality, and on race irrespective of nationality, and on geography irrespective of any other factor. Persons of as much as one-half Asiatic blood are charged by the 1952 act to the Asiatic country of either of their parents, without regard to the fact that they may have been born and bred elsewhere.

ADMINISTRATION OF THE LAW

Many of those who had experience with, or who had studied, the administrative features of current laws and regulations, criticised the

requirement that visa applications be processed through the officials of two different departments. The original application is made abroad to the appropriate consular officer of the State Department. If he rejects the application, there is no appeal. If the consul grants a visa, and the immigrant comes to this country, he is met at the port of entry by an officer of the Immigration and Naturalization Service of the Department of Justice. The Justice Department is not bound by any action taken by the State Department, and the applicant, after making the long and expensive journey to America, may be refused entry, although possessed of a valid visa. This has happened, and is partly responsible for the argument that it is inefficient and wasteful for the United States to have two separate agencies, with like duties and responsibilities, engaged in the same operation, one at the gates to this country and the other in foreign countries.

It was suggested that all immigration matters be combined in one agency of government, so that when an applicant receives a visa he will be assured of admission, except for intervening causes. The Hoover Commission took note of this situation, and recommended that all authority over immigration, including the issuance of visas, be centered in one agency, and proposed that the agency be the Department of Justice. Most of those who appeared before the Commission had no definite views as to whether the consolidation, if made, should be in the Justice Department, or the State Department, or in a separate administrative agency. There was sentiment against leaving the administration of immigration affairs in the Justice Department, on the ground that that Department is essentially a litigating and prosecuting agency, and that there is no particular reason why the administrative functions should remain there. Before its transfer to Justice, the Immigration and Naturalization Service was attached to the Labor Department, and the officials there believe it should be returned. Still others urge that an independent agency should be established to administer all immigration laws.

CRITICISM OF THE LAW

Many other objections to the act of 1952 were submitted to the Commission. Witnesses objected to the unreviewable discretion of minor officials to deny visas. The Commission was told that the prohibitions of the 1952 act apply with great severity to those who may have been convicted overseas of political offenses under the very system that challenges all the free peoples of the world.

There was insistent condemnation of the provisions enlarging, unreasonably it was said, the grounds for exclusion and deportation, and heavy criticism of retroactive provisions under which deportation is authorized against long-time residents for actions which may have

been entirely innocent and inoffensive at the time they were taken. Some urged that there should be no deportation except for illegal entry, on the ground that deportation was banishment and the effect upon family and dependents was grossly unfair—a punishment of severity frequently far in excess of the crime.

Much concern was expressed about changes brought about by the 1952 act in the naturalization law. There was widespread attack against provisions discriminating between native and naturalized citizens and making "second class citizens" of the latter. Objection was voiced to the enlargement of grounds for denaturalization and to their retroactive effect. It was contended that if any naturalized citizen commits an offense, except for fraud in obtaining citizenship, he should be punished in the same way as a native-born citizen and not be subjected to loss of citizenship and deportation. Strong representations were made to the Commission that the punishment of exile, for aliens and naturalized citizens, was a relic of the feudal ages.

Others urged upon the Commission considerations of fair procedure, fair hearings, and proper administrative and judicial review.

Representatives of important business enterprises protested against provisions which they felt unduly and unreasonably affected the efficient conduct of their business in the United States and in foreign countries.

The Attorney General pointed out that, from the standpoint of effective administration, the Immigration and Nationality Act of 1952 requires amendment and clarification, and further that a number of the sections are ambiguous and otherwise defective. One of the sections, a reenactment of previous law, has been declared invalid by a Federal district court. Some of the Attorney General's objections go to the act as a whole, because of its bad arrangement and inferior draftsmanship. Other officials cited specific sections containing inconsistencies, the effect of some of which is to place unnecessary and costly burdens on the administrative agency, and make the act difficult of interpretation and enforcement. Some professors of law informed the Commission that they had great difficulty in understanding the language of the act of 1952.

CONCLUSION

This summarizes many, but not all, of the complaints against the act of 1952 submitted to the Commission during the course of the hearings, and in written statements filed subsequently. The recent immigration legislation was described by those in opposition as the product of isolationism, of baseless fears and prejudices, and a shameful retreat from the principles embodied in the organic laws of our

nation. It was pictured as an arrogant, brazen instrument of discrimination based on race, creed, color, and national origin—a return to approval of *ex post facto* offenses and punishments—weapons of tyranny which liberty-loving peoples have fought since the dawn of civilization.

The consensus was to the effect that the Immigration and Nationality Act of 1952 injures our people at home, causes much resentment against us abroad, and impairs our position among the free nations, great and small, whose friendship and understanding is necessary if we are to meet and overcome the totalitarian menace.

The gist of the appeal to the Commission was for a fresh look at the problem, with the hope for legislation based on humanitarian principles, designed to fulfill our duties and obligations to suffering mankind, and adequate for our needs and for our security.

Part II

IMMIGRATION AND THE AMERICAN WAY OF LIFE

Immigration and the American Economy

In the President's Executive Order establishing the Commission, one of the three major areas of consideration set out by the President was

> the admission of immigrants into this country in the light of our present and prospective economic and social conditions and of other pertinent considerations.

This concern led the Commission to inquire into the historic contribution of immigration to the American economy, to consider the extent to which manpower needs are being met under a policy of severe restrictions on immigration, and to consider the possible advantages of immigration to a growing peacetime economy, to national defense, and to a creative civilization.

AMERICA—A LAND OF IMMIGRANTS

In a short period of human history the people of the United States built this country from a wilderness to one of the most powerful and prosperous nations in the world. The people who built America were 40 million immigrants who have come since the Mayflower, and their descendants. We are still a vigorous and growing nation, and the economic, social and other benefits available to us, the descendants of immigrant forebears, are constantly expanding.

Our remarkable national development testifies to the wisdom of our early and continuing belief in immigration. One of the causes of the American Revolution, as stated in the Declaration of Independence, was the fact that England hindered free immigration into the colonies.

Our growth as a nation has been achieved, in large measure, through the genius and industry of immigrants of every race and from every quarter of the world. The story of their pursuit of happiness is the saga of America. Their brains and their brawn helped to settle our land, to advance our agriculture, to build our industries, to develop our commerce, to produce new inventions and, in general, to make us the leading nation that we now are.

Immigration brought wealth to the United States, many billions of dollars. The immigrants did not bring this wealth in their

baggage—many arrived penniless and in debt—but in their skills, their trades, and their willingness to work. In his testimony to the Commission, Dr. Louis I. Dublin, statistician and second vice president of the Metropolitan Life Insurance Co., pointed out that a young adult immigrant of 18 years today is worth to the Nation at least $10,000, since that is what it costs to raise the average American. The average net worth of such a person to the economy of the United States falls between $30,000 and $80,000, depending on his potential earning power. Throughout our history immigrants have in this way represented additional wealth to our country.

Scarcely one aspect of our American economy, culture, or development can be discussed without reference to the fundamental contribution of immigrants. No roster of leading Americans in business, science, arts, and the professions could be complete without the names of many immigrants. In our history the following aliens may be mentioned, among many, who became outstanding industrialists: Andrew Carnegie (Scot), in the steel industry; John Jacob Astor (German), in the fur trade; Michael Cudahy (Irish), of the meat-packing industry; the DuPonts (French), of the munitions and chemical industry; Charles L. Fleischmann (Hungarian), of the yeast business; David Sarnoff (Russian), of the radio industry; and William S. Knudsen (Danish), of the automobile industry.

Immigrant scientists and inventors are likewise too numerous to list in detail. Among those whose genius has benefited the United States are Albert Einstein (German), in physics; Michael Pupin (Serbian), in electricity; Enrico Fermi (Italian), in atomic research; John Ericsson (Swedish), who invented the ironclad ship and the screw propeller; Giusseppe Bellanca (Italian), and Igor Sikorsky (Russian), who made outstanding contributions to airplane development; John A. Udden (Swedish), who was responsible for opening the Texas oil fields; Lucas P. Kyrides (Greek), industrial chemistry; David Thomas (Welsh), who invented the hot blast furnace; Alexander Graham Bell (Scot), who invented the telephone; Conrad Huber (Russian), who invented the flashlight; and Otto Mergenthaler (German), who invented the linotype machine.

Many of our leading musicians, actors, motion-picture producers, and others in the arts are foreign-born. Law, medicine, education, literature, research, organized labor, and journalism are only a few other of the innumerable fields benefited by outstanding immigants. Any such list can only be a sample of how much immigrants have enriched the America which granted them hospitality and welcome.

The encouragement of immigration was part of the tradition of the United States and one of the reasons why it became a great and powerful nation. Immigration to the United States has come from virtu-

ally every corner of the globe. The greater part of it, however, came from Europe. It is especially interesting to note that the major impulses to come to the United States from the various countries of Europe were passing phenomena, rising at certain stages of the economic or political life in their homelands, and then subsiding. The sources of American immigration shifted with the changing of needs, both in the United States and in the countries of origin. Each generation, even each decade, brought a changing pattern of immigration.

Table I portrays the changes in the dominant countries of the origin of immigration to America. The earliest mass migrations were drawn from the English, Scots, and Scot-Irish people of the British Isles. Colonial immigration of such Britons was supplanted in numbers in the period 1820–60 by migration from Ireland, but the most acute migration fever had passed in Ireland by the end of the 1850's. Immigration from west and southwest Germany became important in this period, and with the opening up of eastern Germany total German immigration was the dominant stream from 1860 to 1890. In these years Scandinavia vied with Ireland in numbers of immigrants. But the crest of this "new" migration from Germany and Scandinavia was passed in the 1880's and gave way to another "new" migration dominated by immigrants from Italy, Austria-Hungary, and Russia.

The emigration fever spread across the European continent from west to east and from north to south. Thus up to 1890 Italian migration to America came largely from the more economically advanced north of Italy. After 1890 Italian migration came increasingly from the south. The main founts of immigration from Austria were in chronological sequence—first, the more developed Bohemia; second, the relatively backward Carinthia and Tyrol; and then, after 1900, Galicia (especially Poles and Jews). Only in the last stages did the movement include substantial numbers of Ukrainians from remote eastern Galicia.

Migration from Hungary and other east European countries was first composed of the minorities most in touch with the West. The distinctive feature of the emigration from Russia which was the last major country of European emigration was its non-Russian ethnic character. Emigration from Russia was firstly made up of peoples culturally most closely in contact with the West, that is, the Jews of the towns, the Baltic peoples, the Poles, and, finally, the Ukrainians.

Thus, by the time of the first World War, the area of Europe from which migrants were drawn had spread to include almost the whole of the continent. The sources of heaviest migration have moved across Europe in a widened circle from the center of first migration in northwest Europe to the latest in southern and southeastern Europe.

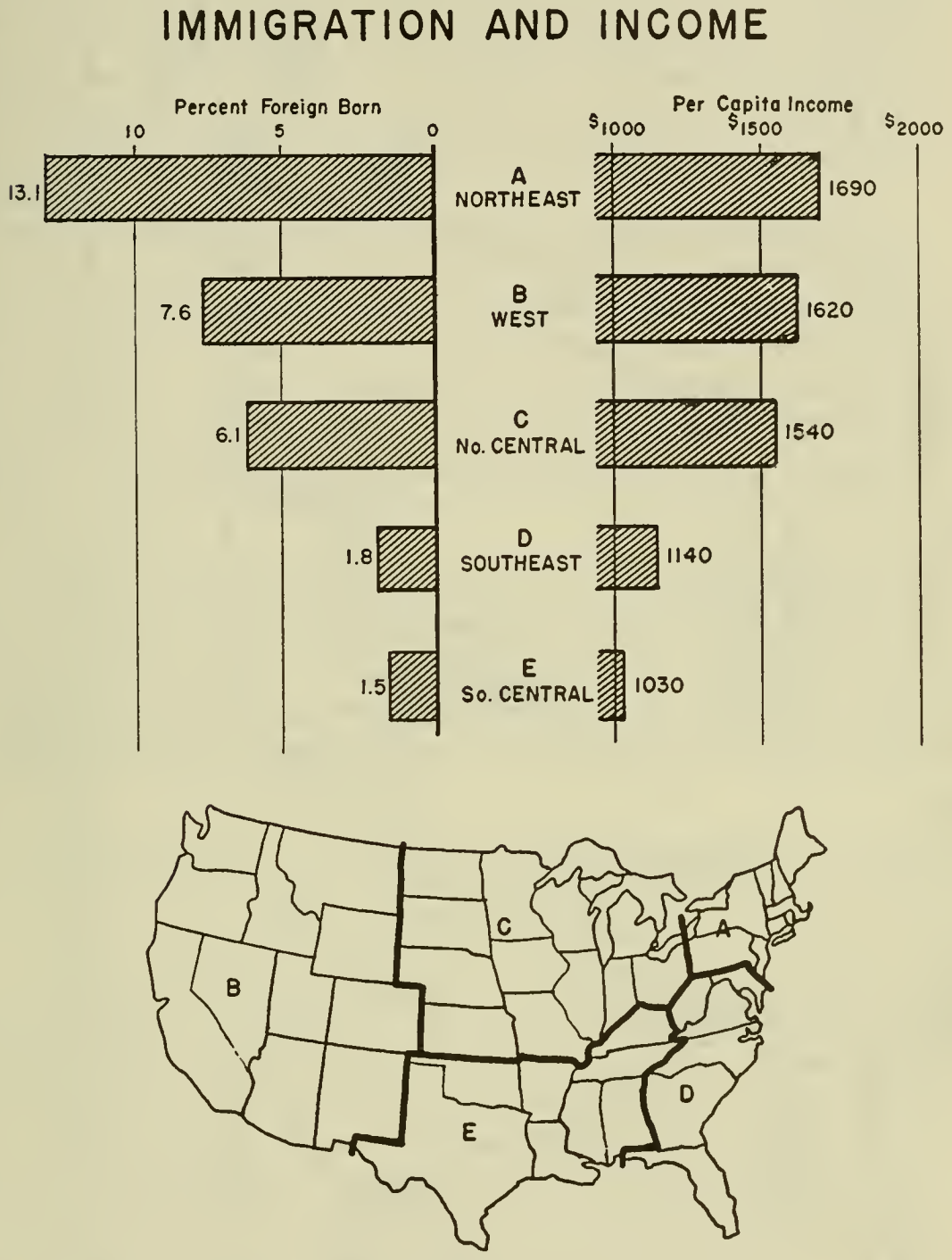
Table 1.—*Leading Sources of Immigration at Different Periods of United States History*

Period	Country and area	Period of largest volume of immigration
Colonial	Great Britain and Northern Ireland.	
1820–60	1. Ireland	1851–55
	2. Germany (mainly west and southwest Germany).	
	1820–30 (Palatinate—Rhine hinterland).	
	1830–40 Weser hinterland.	
	1840–50 Elbe hinterland (Westphalia, etc.).	
1861–90	1. Germany (mainly eastern Germany)	1881–85
	2. Ireland.	
	3. Scandinavia	1886–90
1891–1920	1. Italy	1906–10
	North (up to 1890).	
	South (1890–).	
	2. Austria-Hungary	1906–10
	Bohemia, Carinthia, Tyrol (up to 1900).	
	Galicia, Hungary (1900–).	
	3. Russia (chiefly non-ethnic Russians: Jews, Baltic peoples, Poles, Ukrainians).	1911–15
1921–30	1. Canada	1921–25
	2. Mexico	1921–25
	3. Italy (1921–24).	
	4. Germany.	
1931–51	1. Germany (primarily refugees).	
	2. Canada.	

In the 145 years of unrestricted immigration into the United States, from 1776 to 1921, immigrants generally came when and where they were needed. There is no evidence that their arrival caused either unemployment or impoverishment. The contrary view was generally held by the founding fathers. James Madison, at the Constitutional Convention of 1787, said: "That part of America which has encouraged them [the foreigners] has advanced most rapidly in population, agriculture, and the 'arts'." Whether immigration was cause or effect, it is true today, as it was in Revolutionary times, that the richest regions are those with the highest proportion of recent immigrants. The Commission found a striking correspondence between per capita income and percent of population foreign born, as illustrated by Figure 1. The per capita incomes are highest in regions with a high percentage of recent foreign stock, lowest where immigrants are few. Immigrants went to the regions where there was demand for labor as expressed in high wages. In turn their industry, their skills and their enterprise were major factors in the economic development that has made these regions prosperous.

Immigration has made a positive contribution to our economic life. Reliable evidence indicates that immigration neither contributes to nor aggravates unemployment. A careful study by the late Professor Harry Jerome, *Migration and the Business Cycle*, prepared for the National Bureau of Economic Research in 1926, discovered a

clear correlation between immigration and economic conditions in the United States. In the period of unrestricted immigration, the volume of immigration rose during prosperity but rapidly disappeared in times of depression when it would have contributed to unemployment.



Source: U.S. Department of Commerce

Figure 1.

The relation of immigrants and employment is presented in Figure 2, which shows that, in general, immigrants came when they were needed and stayed away when they were not. Before quota restrictions were imposed, immigration was large in periods of full employment, small in times of unemployment.

IMMIGRATION AND UNEMPLOYMENT

Sources: Immigration - U.S. Immigration and Naturalization Service; Unemployment - Stanley Lebergott, "Earnings of Non-farm Employees in the U.S., 1890-1946" in Journal of the American Statistical Association, March 1948.

Figure 2.

The great depression of the 1930's began almost a decade after the passage of restrictive immigration legislation. The unemployment of the 1930's therefore could hardly be attributed to immigration. On the contrary, a number of distinguished economists believe the restriction of immigration to have been one cause of the depression. Throughout American history rapid increase of population had provided a constantly expanding market for our products. The decline in population growth incident to reduction of immigration and to the declining birth rate in the 1920's removed one factor contributing to our expanding economy.

During the depression, quota restrictions were of no significance—even the small quotas for Southern and Eastern Europe were unfilled. As in the earlier periods, with or without quotas and restrictive devices, prospective immigrants had no incentive or desire to come to this country in time of depression. In fact, in the depression years from 1931 through 1936, a total of 240,000 more aliens left than were admitted. The Commission finds no evidence that immigration either caused or aggravated the depression.

Historically speaking, therefore, immigration has supplied much of the brain and sinew, the human resources that have created our nation. It has come when and where manpower was in demand to build up America and to raise its standard of living, but it has not, of itself, caused depression and unemployment. The new immigrant has helped to enrich the native descendants of earlier immigration.

QUOTA RESTRICTIONS IGNORED THE CONTINUING NEED FOR IMMIGRATION

In reviewing the history of debates on the problem of immigration, the Commission was impressed by the fact that those opposing immigration appear to have been influenced in this view by a pessimistic outlook regarding the future economic growth of the United States. The nation was barely founded before a Congressman rose to say on the floor of the House of Representatives in 1797 that while a liberal immigration policy was satisfactory when the country was new and unsettled, now that the United States had reached maturity and was fully populated, further immigration should be stopped.

However, such views have continued throughout our history. In 1921, the Immigration Committee of the House of Representatives again recommended complete termination of all immigration. By the 1920's there was widespread fear that the country could not profitably absorb immigration in the volume received before World War I. The territorial frontier was gone. The country was "filled up" in the

sense that good agricultural land was almost fully occupied and under cultivation. The economy was rapidly becoming industrialized, a "mature" economy was emerging, and therefore, it was argued, immigration had to be drastically curtailed.

With the 1921 Quota Act, originally designed for a 1-year emergency, there began a wholly new departure in American law: a limitation on the number of immigrants that could be admitted into the United States. The Immigration Act of 1924 not only carried into permanent law the concept of a limitation on numbers, but also initiated the formula of selection on the basis of race and nationality. The Immigration and Nationality Act of 1952 continued and strengthened the same principles.

The onset of the depression in 1929 seemed to validate the views of those who feared that economic maturity meant the end of economic growth in the United States. This did not prove to be the case.

Our economy has expanded by leaps and bounds. Our gross national product in 1924 of $140 billion (in 1951 dollars) grew to $329 billion in 1951; foreign exports of goods expanded from $6½ billion (1951 dollars) in 1924 to $15 billion in 1951; manufacturing production increased by 140 percent, and agricultural output by 51 percent between 1924 and 1951. Our farmers had an average per capita income from farming of only $302 in 1924 (in terms of 1951 purchasing power), which rose to $760 per capita in 1951. These are but a few examples of growth since the 1920's, and of the dynamic nature of our economy.

This economic expansion required an expanding labor force. The demands were met, as in the past, partly through natural growth and partly from migration. The labor force increased from 41.2 million in 1920 to 66 million in 1951. When the normal sources of European immigration were substantially cut off by our legislation of the 1920's, our industries had to seek other sources of labor. This they found in three ways: (1) by enormous migration from our own rural areas in the United States; (2) by increased immigration from Puerto Rico, the West Indies, and the nonquota countries of the Western Hemisphere; and (3) by special legislation providing for temporary immigration from neighboring countries.

During World War II, and after, many hundreds of thousands of workers were drawn from the farms to man the factories and other establishments of our urban centers. Since 1940 over one and a half million southern Negroes moved to the cities of the North and West to fill the manpower shortages. The Negro population of the North and West more than doubled through this migration. But this was not enough. This source of manpower had to be supplemented by some 200,000 Puerto Ricans, and other West Indians. Quite aside from the movements of native white people in the United States, there were nearly 2 million total migrants who moved into the northern and

western States from these internal sources in the decade 1940–50, and the movement continues unabated.

During the same period there was a net foreign immigration of one and a half million people that went chiefly to the industrial areas of the country. Thus, the total migration to the North and West from the South and from abroad during the forties was at least as large as the net immigration in the decade 1890–1900, the third largest decade of European immigration in our history. In other words, the northern cities continued to need immigrants but had to get them mainly from elsewhere than Europe.

But even this was not enough to meet the demands of our growing economy. Congress also found it necessary to enact special immigration legislation admitting certain groups of immigrants temporarily to meet the manpower shortages, both in agricultural and nonagricultural employment.

As a result of acute labor shortages in agriculture during World War II, special programs for recruitment of seasonal and temporary workers from Western Hemisphere countries were undertaken by intergovernmental agreements. Large numbers of aliens were involved in these programs, both during the war and after. The greatest number of Mexican farm workers legally in the United States for this purpose at any one time during World War II was 67,860 around August 1, 1944. As many as 21,000 Jamaicans and 6,000 Bahamans, as well as small numbers of Canadians and other North Americans, entered the United States under similar programs from time to time during this period. After the war, and under a law enacted in 1948, this recruitment of immigrant agricultural workers was continued on a peacetime basis. During the year 1951, some 191,000 Mexican nationals were admitted temporarily for agricultural work. Even this movement of immigrants, authorized by Congress, is overshadowed by the illegal entry each year of over half million Mexican "wetbacks."

Specific agricultural activities have sometimes received explicit Congressional exemption from restrictive immigration provisions. Two enactments have authorized the granting of special quota immigration visas to skilled sheepherders, to be charged against future quotas. Under 1950 legislation, 250 were permitted to enter, of whom 125 were admitted during the fiscal year 1951. Another statute in 1952 authorized the admission of 500 more sheepherders.

In the original 1948 Displaced Persons Act, Congress provided a 40 percent preference for agricultural labor, a further indication of Congressional recognition of immigration as a potential source of agricultural manpower.

During the war a manpower gap also appeared in the nonagricultural occupations. A total of 135,283 Mexican nationals worked on

railroads in the United States from May 1943 to August 1945. More might have been used, but the Mexican government imposed a maximum ceiling of 75,000 who could be permitted in this country at any particular time. During the fiscal year 1951 some 10,000 Canadian woodsmen were permitted entry into Maine, Vermont, New Hampshire, and New York to fill a need for manpower not otherwise available.

Another example of the use of immigration to meet labor shortages can be seen in the United States Department of Labor's certifications for waiver of the contract labor provisions of the pre-1952 immigration act. Such waivers were based on the unavailability of similar domestic labor. In the 7-year period from 1946 to 1952 there were 11,028 certifications, in addition to Canadian woodsmen. These certifications covered a total of 448 different occupations, many of which appeared year after year in this 7-year period.

In the light of this experience under the restrictive limitations on immigration under the laws in effect since 1924, the Commission finds that immigration continues to be what it has always been in our history, a source of necessary manpower. Despite the efforts to change this situation by shutting off immigration from its customary sources, **the American economy still continues to demand some form of immigration to meet the manpower demands of a growing and vigorous nation.**

THE UNITED STATES NEEDS MORE IMMIGRATION

The United States needs more manpower. We need it to meet current labor shortages. We need it to meet the demands of an expanding civilian as well as military economy. And we need it to meet the requirements of national defense and security. Immigration is a normal and historic source of additional manpower.

Manpower in an Expanding Economy

During the Commission's hearings there was convincing testimony for the need of additional workers in almost every section of the United States both in industry and agriculture. Labor unions, industry, economists, public officials, religious leaders, job placement officials, civic workers, and others, all testified that there were labor shortages ranging from temporary to permanent, from reasonably necessary to critical.

Agriculture.—A need for more agricultural labor was voiced from many quarters. Knox T. Hutchinson, Assistant Secretary of Agriculture, testifying for the United States Department of Agriculture, told the Commission that "we have a great need for farm manpower." He advised the Commission as follows:

Our goals and sights for the future must encourage progressively higher levels of agricultural output. * * * there are within this picture of future food and fibre requirements, both the need and absorptive capacity of American agriculture for some augmentation of the supply of labor which a carefully liberalized policy of immigration would make available.

The Department of Agriculture pointed out that, although our population has been increasing, there has been a decline of almost two million farm workers in the last 40 years, from 1910 to 1950, and that a further decline of another one million and a quarter can be expected by 1975. In 1951 our farm employment was 300,000 under 1950, and 700,000 under 1949. It is estimated that by the end of 1952 we may average 250,000 fewer than in 1951. These declines in farm workers took place despite the importation of farm labor from Mexico, the British West Indies and Canada for seasonal farm work. The Department of Agriculture warned that if the present rate and trend continue, by 1975 only 10 percent of our population will be farm population.

The United States Department of Agriculture also informed the Commission of the results of its survey of current agricultural manpower. Reports of farm manpower difficulties came from all sections of the United States. Almost one-third of the States report that the greatest difficulty is in the short supply of regular year-round hands. Farm shortages were especially serious in dairy, livestock, poultry, sheep ranches and some other types of farming. The Department of Agriculture indicated that permanent immigration could be a source of regular farm workers and would contribute "to meeting the needs of the moderate-size commercial family farm that required year-round hired labor." Through immigration "an important contribution can be made to our agricultural economy," it asserted.

Major farm organizations presented similar views. The National Grange declared in a statement to the Commission that

* * * It has been increasingly difficult for farm operators to find competent and reliable hired men and if the present trend away from the farm continues the American people might have to reduce the quality and level of their present diet. This would be undesirable from the standpoint of the American people as a whole, and also from the standpoint of farmers who need and can use extra labor if it is of a high quality * * *

The National Farmers Union testified that it "believes that this Nation could readily welcome and assimilate more than 154,000 immigrants each year."

The Commission noted, however, that those who urged the need for more people to meet manpower shortages, have also insisted that if immigration is to help meet this need, there must be careful selection of competent farmer immigrants if they are to meet the rather specialized requirements of American agriculture.

In connection with the needs of agricultural manpower it is important to note that a basic change is taking place in our agricultural economy. In some cases due to labor shortages, in other instances because of economy of operations and greater profit yield, farming is becoming mechanized. To the degree that mechanization and technological advances are applied to farming, experience has shown the possibility of a greater agricultural output with less manpower.

This factor has variable application in different areas of the country and to different kinds of farming. It seems to have reached its greatest development on the wide grain fields of the Great Plains, with an increasing size of the farm and an industrialization of agriculture. In such areas and for such farming, the Commission heard far less of need for more manpower.

On the other hand, as has been indicated, the Commission's hearings disclosed a consistent and responsible claim of labor shortages for dairy, vegetable, livestock, poultry, and other such farming.

The Commission found that the agricultural manpower situation was spotty. In some areas there is a surplus of agricultural labor as judged by wage rates, per capita output, and other measures of underemployment. In some areas there is a relative balance of supply and demand. But in many other areas of the country, there is both a need for agricultural labor and a demand that it be satisfied through immigration.

Industry—The need for manpower is more general and acute in nonagricultural occupations, as evidenced by the fact that these occupations have attracted many hundreds of thousands of workers from farming in the past few years. The Commission received convincing testimony that the country is enjoying a condition of full employment with ample opportunities and needs for additional workers in many quarters.

The New York State Industrial Commissioner, Edward Corsi, testified that "We are suffering from a very great labor shortage in this State both on the farm and in the factory." He stated that there are 350,366 unfilled nonagricultural jobs, and 4,500 unfilled farm jobs in New York State alone.

The Commission found that witnesses were convinced of the continued needs for more manpower in the future. The Secretary of Labor of the United States, Maurice J. Tobin, testified as follows:

> As an over-all conclusion, I would say that the future holds for us a continuing fairly tight situation, so far as manpower resources are concerned, and that we may safely gauge our immigration policies accordingly.

The United States Commissioner of Labor Statistics, Ewan Clague, testified in a similar vein:

> Although we cannot rule out the strong possibility of short-term fluctuations in employment conditions, we may confidently look forward to a continued up-

trend in our Nation's manpower needs. * * * This sustained demand for manpower for national defense will be superimposed on our expanding normal peacetime requirements.

He also pointed out that despite the continuing need for more manpower the immediate future labor supply may well be declining. This is due to the fact that the number in the age group which would normally provide the main addition to the nation's work force during the next decade has actually declined. In 1950 there were two million fewer young people in the age group 10 to 19 years than in 1940, or a decrease of 8 percent. As a result, the annual inflow of young workers into the labor force is currently at the lowest point in many years, and will continue low until the larger numbers of children born after 1940 reach working age.

Thus, the best evidence available to the Commission shows that the United States will continue to need more manpower both in agriculture and in industry. Our expanding economy needs an expanding labor force; the needs of our industries especially have proved to be and are likely to continue to be enormous.

In view of the shortages of young adults over the next few years, the American economy will have to look, even more than in the recent past, to other than domestic sources of labor supply.

The Commission's study brings it to the conviction not only that the United States needs more manpower, but that the United States needs more immigration to fill this demand.

NATIONAL DEFENSE—LACK OF MANPOWER RESERVES

Our potential needs for immigration should not be judged in terms of peacetime civilian requirements alone. We must also consider our human resources for our national defense and security. This consideration is quite aside from the significance of immigration in terms of the current ideological war between the forces of totalitarianism and the forces of democracy. The significance of immigration in the latter connection will be considered in Chapter 3.

Our present manpower position in relation to potential enemies has drastically changed since World War II. In that war we and our allies had an impressive superiority in numbers over the smaller populations of Germany, Italy, and Japan. Today the situation is reversed. It is our potential enemies that have a preponderance of manpower and it is we that would have to husband our manpower resources in a general war.

The United States Commissioner of Labor Statistics testified before the Commission that the facts of our population growth and structure

* * * emphasize the frequently reiterated statement that, in comparison with countries found within the Soviet orbit, our greatest relative shortage is in

manpower resources. Our national self-interest requires that every consideration of our situation, including immigration policies, recognize this paramount fact.

Expert testimony to the Commission revealed that the labor force of the Soviet Union, estimated to be some 108 million in 1951, very substantially exceeds ours, which is given by the Bureau of the Census as 66 million in 1951. In addition, the Soviet labor force will increase much more rapidly than ours owing to the high birth rates in Russia before World War II.

The strain of war on our manpower would be greater than during World War II, not only because of greater need, but also because the possibilities for rapid expansion of the labor force are much more limited than in 1941. For one thing, we are working longer hours; the average workweek in manufacturing was 41.5 hours in October 1951, as compared with 39.4 hours in October 1940. At the outbreak of World War II we had major reserves that are now either unavailable or available in much smaller quantities: (*a*) the unemployed, (*b*) women not now in the labor force, (*c*) underemployment in agriculture, and (*d*) young workers.

Unemployment

In April 1940, at the time of the decennial census, there were 8,360,000 unemployed. By October 1941 some of this reserve had been absorbed in defense effort but there remained 3,840,000 unemployed. Today the reserve is almost nonexistent. The number of unemployed has sunk to 1,284,000 which is little more than that involved in the normal job turn-over. Today we have almost full employment, and no substantial reserve with which to meet a sudden crisis demanding both military and industrial manpower.

Women in the Labor Force

A substantial part of manpower needs in World War II were met by bringing some five million additional women into the labor force. In October 1952 there were 1.5 million more women in the labor force than at the peak of war employment in 1944 and the percentage of all women who held jobs was almost as high. In other words we are now using the potential female labor force almost as fully as we did at the height of World War II, a fact all the more remarkable since the "baby boom" of the past few years has greatly increased the number of young mothers who must stay home to care for small children. The potential labor reserves among women not in the labor force are thus much smaller than in 1941.

Underemployment in Agriculture

A careful study on *Underemployment of Rural Families*, prepared for the Joint Committee on the Economic Report in the Eighty-

second Congress, arrived at the conclusion that there were 2 million underemployed farm operator families in 1945, located primarily on small, unproductive farms in the southeastern States. Seven years ago these families included a potential addition to the labor force equivalent to 2½ million workers.

As indicated, this underemployment in agriculture provided a partial substitute for immigration in meeting the war and postwar needs of industry. Due to mechanization and more efficient farming methods, additional farm workers are being freed in some areas for other employment; but experience shows that they do not become available to meet agricultural manpower shortages in other parts of the country. Potential further gains to the industrial labor force are becoming more limited, however, as the farm population declines and the reserves are progressively tapped by movement from the farms to the cities. It is a question how much further we could go in wartime without crippling essential agricultural production.

Young Workers

Young adults are the most flexible part of our labor force, whether in terms of geographical mobility or in terms of training for new jobs. This section of the labor force is of crucial importance from the standpoint of defense, whether it is employed in the armed forces or to provide a fluid labor force adaptable to rapidly changing needs. However, our supply of young people is smaller and shrinking, owing to the low birth rates of the depression years. The number of young people of the forthcoming military ages is declining in the United States. In the 10-year period between 1940 and 1950, there was a drop of 2 million people in the age group 10 to 19 years of age. This and other basic changes in our population structure are adversely affecting human resources at a time when security needs are increasing.

POPULATION STRUCTURE

Certain unfavorable trends in our population structure may adversely affect our national welfare and security.

Growing Older

The American population is growing older. Since 1900 the median age has risen from 23 to over 30. Several factors have caused this aging of our people in the last 50 years—we live longer, we have fewer children, and our restrictive immigration policies have cut off a former plentiful source of young adults. Not only has the restriction of immigration reduced the number of immigrants but in addition its preferences and categories favor older persons.

Normal immigration is heavily concentrated in the young adult ages. Prior to immigration restrictions, over three-fourths of our immigrants were in the highly productive age group 16–44, and they were particularly concentrated in the age group 16–29. As a result immigration brought us more producers than consumers, and more workers than dependents. It brought us a ready-made labor force that cost us nothing in terms of rearing and education. Because of this concentration in the young adult ages, even a comparatively small increase in immigration could bring about an important increase in the young labor force.

This fact is illustrated even by the recent displaced persons program in which a special effort was made to move whole families. The roughly 400,000 persons admitted were a young and growing addition to our population. Over half (51 percent) were in the prime working ages of 20–44, as compared with only 37 percent in the United States population as a whole. Less than a fifth (19 percent) were over 45 as compared with 28 percent in the total United States population.

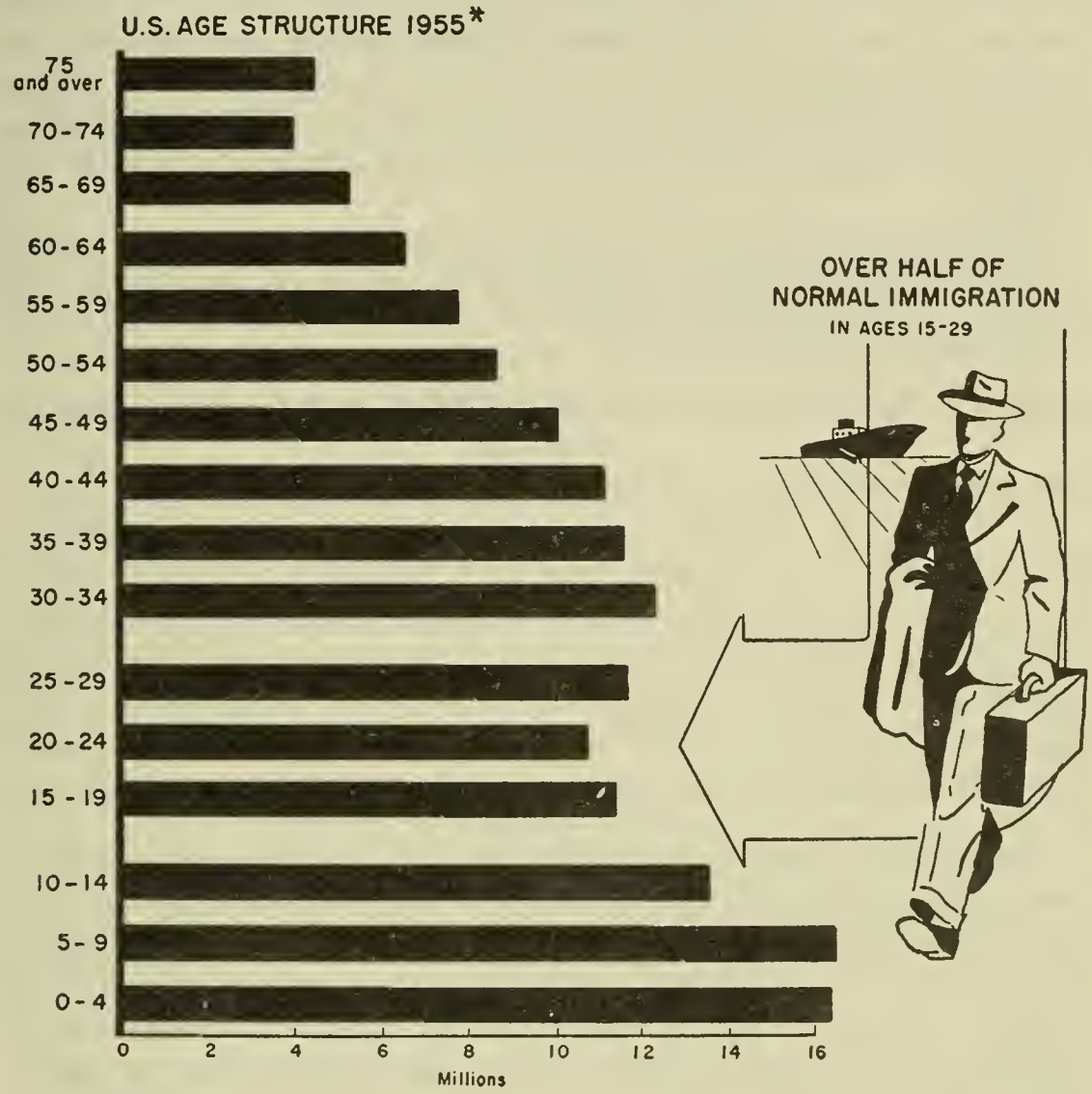
An aging population means that we have more older people, retired persons and disabled, who must be supported by persons in the working ages. As the average age of a population goes up the burden of old-age dependency grows, and the taxes necessary to support the aged increase. At the same time the labor force is more and more made up of older workers who lack the adaptability required to meet many essential economic needs. Finally, the "baby boom" of the last few years has meant a great increase in child dependency at a time when our young labor force is shrinking, thus further increasing the burden on the people in the working ages. These developments would not be serious in a peacetime economy as productive as ours. The older worker and older citizen has much to contribute to the nation in stability, judgment, and experience. But, the effect of our present dearth of young adults is of serious consequences to our national defense and security. Changes in the age structure of the United States are shown in Figure 3.

In the next few years the United States will have a deficit of young men and women, chiefly as a result of the low birth rate in the depression decade of 1930–1940. Without more immigration only 20 percent of the United States population in 1955 will be in the ages 15–29. Larger immigration would tend to fill this important gap in our population structure. In 1925–1929, the last period of "normal" immigration in the United States, 55 percent of the immigrants were in the ages 15–29.

The crucial age group for military service, the people in the age bracket of 18–24, is declining and will be declining during the next

few years. The number of men annually reaching the military age of 18 is now 200,000 less than in 1940. The number of men available for induction and military service under present laws will be comparatively low during most of the decade.

IMMIGRATION AND THE POPULATION STRUCTURE



*Estimated by U.S. Bureau of the Census.

Figure 3.

If we will let it, **immigration in the next few years could provide a valuable supplement to this shrinking manpower at the critical ages of prime military importance.**

More Women Than Men

During our entire history, until 1944, the United States had more men than women. This is no longer true. In 1900, there were 105 men to every 100 women. By 1944, the balance had changed; and by 1950, there were only 98 men to every 100 women. By 1950, we had 1,030,000 more women than men. Much of this excess is in the nor-

mal marriageable ages of 20–44 where we have 900,000 more women than men.

Restrictive immigration laws have played a major part in this fundamental change in our population. Since 1820, immigration has contributed a very high percentage of men to this country. In the period of free immigration from 1820 to 1921, there were 150 men to 100 women among those admitted to the United States. This same pattern of more men than women prevailed among persons admitted under the displaced persons program, even though there was a conscious and deliberate effort to move families as a whole. Under the Displaced Persons Act, over 119 men were admitted for each 100 women.

The effects of restrictive immigration are evident in the following table which shows the percentages of male and female immigrants in the five decades of this century:

Table 2.—*Proportion of Males and of Females Among Immigrants: 1901–50*

Years	Males	Females
	Percent	*Percent*
1901–10	69. 8	30. 2
1911–20	63. 5	36. 5
1921–30	55. 6	44. 4
1931–40	43. 4	56. 6
1941–50	33. 8	66. 2

The effects of restrictions in the 1921 and 1924 quota acts were already observable in the twenties. When the restrictive national origins quota law took effect in 1929, the number of men entering the United States as immigrants dropped very considerably below the number of women. This was due to the fact that small quotas tend to be filled by wives and relatives of earlier immigrants, who have quota preferences, as opposed to new male immigrants who predominate in normal overseas immigration. Whereas previously as much as two-thirds of the immigrants were men, now as much as two-thirds are women.

Thus, immigration played an important part, prior to the restrictive Act of 1924, which went into effect in 1929, in maintaining a numerical superiority of men over women in the United States. Since 1929, it has contributed to a changed pattern.

The changing sex ratios in our population and the growing surplus of women can have serious repercussions. The effect upon our labor force, upon the number of wage earners supporting families, and upon our available military reserves, is obvious. The social and moral

effects of reduced marriage possibilities for American women can be of the greatest significance.

A renewal of a more substantial volume of normal immigration would tend to redress this growing imbalance in the American population. **Larger immigration would tend to fill gaps in our population structure.**

ABSORPTIVE CAPACITY

The Commission does not believe that it is advisable to base our immigration policy wholly on the specific needs of the United States for more manpower. Other considerations are equally if not primarily compelling, such as our humanitarian traditions, our foreign policy, our security needs. However, **our manpower needs do have important relevance to what American immigration policy ought to be, and the Commission's studies indicate that our present immigration policies are a serious barrier to the fulfillment of those needs.**

The restriction of immigration in the 1920's was due largely to a pessimistic view of America's future.

The Commission's belief, from the testimony at its hearings and from other information available to it, is that the United States now has and will continue to have a dynamic, expanding, and flexible economy needing more people, and will be fully capable of absorbing a reasonable increase in our present maximum immigration quota. In the past, immigration gave us our most important resource, our people. There is every indication that we have not reached, nor are we likely in the foreseeable future to reach, the point at which new immigration will no longer contribute to our further growth, strength, and prosperity.

The United States Is Not Overpopulated

We are now a nation of 157,000,000 people. The productive capacity of our country is rising rapidly today, perhaps as rapidly as at any time in our history. Our average level of living is the highest in the world, higher than it has ever been before, and it is moving forward despite the effects of war, of a massive defense effort, and of our continued population growth. This is not a picture of overpopulation.

A report of the Immigration Section of the Commonwealth Club of San Francisco stated as follows:

> * * * During the past six decades production has increased by nearly eight times. We nearly doubled our annual production every two decades. In other words, our production has risen nearly 100 percent in 20 years, whereas our population has risen only about 20 percent. Our production growth has always exceeded our population growth.

And the future looks bright. Our resources and our food production are adequate to meet any reasonable increase in population. All indications are that our material standards will continue to rise. The President's Materials Policy Commission reached its conclusion as to the adequacy of our national resources in the light of an anticipated population increase of 27 percent from 1950 to 1975, a doubling of the gross national product in that twenty-five year period, a decrease of 15 percent in hours worked, and an increase in the material standard of life. These assumptions would mean, for example, a 62½ percent rise in the number of passenger cars in use, an increase of from 62½ percent to 87½ percent in the number of telephones in use, and other increases in like measure.

As for the nation's ability to feed its population, there is no reasonable doubt that, in the foreseeable future, we can have food for all our people. The Assistant Secretary of Agriculture testifying before the Commission said: "I have no fear that the American population will run short of food." Separate studies by the Department of Agriculture, the Land Grant Colleges, and the President's Materials Policy Commission, all indicate that with the full use of the best known and already proven farm practices, farm production can be raised sufficiently to meet all demands likely to be made by the American population of 1975. Therefore, on the basis of reliable evidence, the Commission has no misgivings of the ability of the American farmer to provide in the foreseeable future an adequate food supply for a well-fed nation.

The United States Can Absorb More Than the Present Maximum Quota

Ours is a healthy and, at present, a rapidly growing population. Since the war's end in 1945 we have already added 17 million people, nine-tenths as a result of the excess of births over deaths, only one-tenth from immigration.

Estimates of future population, by the United States Bureau of the Census, suggest continued growth, although not necessarily at the present rates. The medium estimate indicates a United States population of 171 million in 1960 and 190 million in 1975, assuming immigration at the present levels and a considerable drop-off from the present "baby boom." Of the 14 million prospective growth between 1952 and 1960, less than one-eighth would be due to foreign immigration in its present volume. The population is growing at a rate of over 2½ million per year. Obviously in this circumstance the effect of immigration under a quota ceiling of either 154,000 or 250,000 will be a minor factor in the general population growth.

Other countries have shown that a far higher proportion of immigrants can be absorbed. Australia, whose total population is about

that of New York City, has been absorbing immigration at an average of 134,000 per year. This is a rate of immigration in relation to population twenty times that provided by our present quota ceilings.

In Chapter 4 the Commission recommends a maximum ceiling of some 250,000 quota immigrants each year, based upon one-sixth of 1 percent of the 1950 population of the United States. The evidence before the Commission indicates that such figure is well within the present safe limits of absorption into the American economy, for the foreseeable future.

The attitude of organized labor is significant in this regard. In testimony before the House Committee on Immigration and Naturalization in 1946, the Congress of Industrial Organizations (CIO) stated:

> Naturally, a labor organization representing six million American workers would not be inclined to support measures which would threaten the job security of its own members. However, the CIO realizes from past experience that immigration is automatically checked in periods of unemployment while it rises in periods of prosperity; that in the past, immigrants have contributed in innumerable ways to the wealth and well-being of this country; that a large proportion of immigrants are not potential job seekers but women and children; that new blood in industry, agriculture, business, and the professions, enriches our national life; and that the best and most enlightened thought on this subject opposes arbitrary, prejudiced, and superficial legislation to curtail immigration into the United States.

During legislative discussions on the Displaced Persons Act, labor leaders indicated that an annual immigration of 250,000 could have no adverse effect on our economy:

The late William Green, then President of the American Federation of Labor (AFL), testified:

> We do not believe that the admission of as small a number as 400,000 over a period of 4 years [in addition to the quota's 154,000 annually] will seriously affect our employment or unemployment problem * * *

The late Philip Murray, then President of the CIO, presented a statement which said in part:

> Let me say for the record that we in the CIO can find absolutely no basis in fact or reason for the fear that admitting 100,000 immigrants a year for four years [in addition to the quota's 154,000] would jeopardize the jobs of American citizens. * * * I do not think it is the true friends of labor who will argue that our economy cannot stand the addition of less than one-tenth of one percent of the number of our population annually for four years without creating unemployment.

A factor that must be borne in mind is that our immigration laws have a built-in brake, so to speak, which can protect the United States against such difficulties. The provision which authorizes the denial of a visa to a person likely to become a public charge has in past experience, particularly in the depression of the 1930's, proved to be an

effective protective device in this regard. Furthermore, the experience of the Displaced Persons Commission indicates that a sensitive resettlement program could bring 400,000 people into the United States, keep them out of areas of labor surplus and direct or route them to areas of labor shortages. In February 1950, that Commission reported as follows:

> The impact of displaced persons on aggregate unemployment in this country has been insignificant. Even in critical unemployment areas displaced persons have been a negligible factor in the degree of unemployment.

Normal experience has shown that only about half of the immigrants coming to the United States go into the labor force. Since the total population grew two-thirds between 1920 and 1950, an increase of immigration from 154,000 to 250,000 per year could scarcely present serious problems of absorption. On the other hand, it could (1) provide by 1960 an addition of 500,000 to 1,000,000 in our manpower of military age; (2) relieve special manpower shortages of importance both for the needs of defense and of an expanding peacetime economy; and (3) continue to supply us with the talents and skills from abroad that have so strengthened and enriched our civilization.

Immigration and our Foreign Policy

In the Executive Order which established it, the Commission was given the task of considering:

> * * * the effect of our immigration laws and their administration, including the national origin quota system, on the conduct of the foreign policies of the United States, and the need for authority to meet emergency conditions such as the present overpopulation of parts of Western Europe and the serious refugee and escapee problems in such areas.

LESSONS OF HISTORY

None can truthfully say that the Japanese attack on Pearl Harbor was a direct result of the Immigration Act of 1924. However, responsible experts have assured the Commission that the Japanese exclusion clause of the 1924 Immigration Act contributed to the growth of the nationalistic, militaristic, and anti-American movement in Japan which culminated in war against the United States.

While the 1924 bill was under consideration, the Japanese Ambassador pointed out that the exclusion clause would be a serious blow to Japanese self-esteem. His counselor of embassy warned that it would undercut the pro-democratic forces in Japan and strengthen the militarists. Secretary of State Hughes urged Congress not to "affront a friendly nation" by placing a legislative stigma upon its people. But the bill became law—and the consequences predicted for it came to pass. Ultra-nationalist and militarist elements in Japan gained strength and fervor in their efforts to whip up hatred of America and to spread the doctrine of "Asia for the Asiatics."

One of Hitler's excuses for taking Czechoslovakia and attacking Poland was the need for "living space" for Germany's growing population. Mussolini used Italy's overpopulation to excuse his attack on Ethiopia. The Japanese Government attempted to justify its invasion of Manchuria on similar grounds. Without in any way justifying the wrong done, the Commission believes these examples demonstrate the vital role that migration or lack of migration plays in world affairs.

American immigration law, unfortunately, has not always been formulated with an eye to its effects on our international relationships. But there have been instances of recognition, particularly in recent

years. The repeal of the Chinese Exclusion Act, in 1943, and the repeal in 1946 of exclusion directed against India, in favor of quotas for both countries, were themselves implementations of foreign policy. The repeal of Japanese exclusion in 1952 further demonstrated a growing American realization that immigration policy can be a positive as well as a negative factor in foreign policy.

The present nonquota status of immigrants from the Western Hemisphere is another recognition of the foreign policy aspects of immigration law. Theoretically and practically, the national origins formula could have been applied to these nations, too. But here our "good neighbor" policy and considerations of hemispheric foreign relations seem to have prevailed.

The Displaced Persons Act is another recent recognition of the relationship between immigration and international stability.

Our whole national history illustrates a point which has only recently come to be recognized in its own light: **American immigration policy and law must be formulated in awareness of their international impact and must be designed to advance our foreign policy.**

RESPONSIBILITIES OF LEADERSHIP

Our present immigration policy dates from the period following the first world war. That was only some 30 years ago, but it was a different era of world and of American history. Then the United States was seeking to avoid the international responsibilities which its power and stature placed upon it. Our present immigration laws are rooted in the period of America's blindest isolationism.

Today the United States is in a different position. For good or ill, this country now occupies a position of leadership among the nations of the free world. We cannot avoid the responsibilities that fall on the shoulders of a leader. The United States can never again turn its back on the facts of international relations.

Although the United States is a world leader, its leadership is effective in only part of the world. This means, among other things, that our responsibilities toward those peoples who share our outlook are sharper and clearer. In the struggle against communist totalitarianism today—as against other totalitarianisms yesterday—it is obvious that for our own well-being we must have genuine friends and firm partners.

In this situation, any action the United States takes or fails to take inevitably affects the partnership we speak of as the community of free nations. And because it affects the partnership, it also reacts upon our own position of leadership. This is especially true in connection with actions which relate directly to the nationals of other countries.

This is not to say that our immigration laws should be determined by what other countries or people want. But it is to say that what the United States itself should want in its immigration laws should be tremendously affected, in our own welfare and security, by the effect such laws have on foreign countries and peoples. The responsibilities of leadership include and require "a decent respect to the opinions of mankind."

IMMIGRATION IS PART OF FOREIGN POLICY

If any view presented to the Commission can be said to be substantially unanimous, it is that our immigration law is part of our foreign policy. It came to the Commission from diplomats, businessmen, scholars, clergymen, labor and farm leaders, civic leaders, club women—in fact, from almost every walk of life.

Officials dealing with American foreign policy feel this very strongly, as is shown in their testimony before the Commission. The Secretary of State of the United States, Dean Acheson, advised:

> Immigration, like most important facets of our national life in these times, is closely linked with our foreign policy and objectives. * * *
>
> Our immigration policy with respect to particular national or racial groups, will inevitably be taken as an indication of our general attitude toward them, especially as an indication of our appraisal of their standing in the world. It will, therefore, shape their attitude toward us and toward many of our other policies.

The Director of Mutual Security, W. Averell Harriman, stated:

> The kind of immigration policy we adopt is a factor in the world struggle between democracy and totalitarianism.

William H. Draper, United States Special Representative in Europe and formerly Undersecretary of the Army, stated to the Commission:

> Whether we like it or not, we are part of the world, and we can no longer disassociate ourselves from what happens elsewhere * * *
>
> In endeavoring to strengthen the economic and military defense of the free world, and particularly of the North Atlantic Community, we should recognize immigration policy as one of the elements in achieving economic and political stability as well as social equilibrium.

The Psychological Strategy Board's consultant, Edward M. O'Connor, told the Commission of his conviction that

> * * * our immigration law, together with its enlightened administration, is a fundamental instrument in the conduct of our relations with other nations and * * * must at all times, and particularly in times of interuational crisis, be geared to a dynamic, purposeful, and farsighted policy of world leadership.

Similar concern for the relationship between immigration and foreign affairs was expressed by outstanding private citizens. Russell W. Davenport, former editor of the magazine *Fortune*, testified:

Nothing perhaps has affected the world standing of the United States so deeply, in so many ways, over so long a period as its immigration policy. The United States has always stood forth before the nations as a haven of refuge from tyranny and disorder, and this fact has profoundly affected the traditions of our country and of our free way of life. Moreover, as we look toward the future, our immigration policy appears to become more important, rather than less. We are a symbol of freedom and the world looks to us to define in concrete ways how freedom can be achieved. Our immigration policy is vital to that definition.

Miss Anna Lord Straus, past president of the League of Women Voters and former member of the American Delegation to the United Nations General Assembly, stated to the Commission:

I had the opportunity to learn something of that when I was over in Paris at the General Assembly at meetings with representatives formerly from countries that are behind the iron curtain, who were living in Paris. We had discussions at that time as to what the United States might do to be more helpful, * * *

In these discussions which were very frequent, very frank, and quite unfavorable to some of the actions of the United States, there was an underlying friendliness to us, but a difficulty in being able to interpret to their people our country, and time and time again it was an immigration problem that was at the root of it, because, as they kept saying, "no matter what you say, if you don't act according to your professions of faith and your statements, they will discount entirely what you say", and the immigration question came up very frequently in quite a variety of discussions that I had with those people.

Mrs. Z. W. Schroeder, of the General Federation of Women's Clubs declared:

* * * I would like to particularly add emphasis as to the question of the corelationship between immigration laws and restrictions in our entire foreign policy * * * So, my plea is this: Your immigration laws in this country, our immigration laws, should be a flexible instrument of our foreign policy.

J. D. Zellerbach, San Francisco industrialist, wrote the Commission:

My strong conviction is that the present immigration laws are in direct conflict with United States philosophy and policy on foreign affairs and are unrealistic in facing up to world conditions.

The President of the American Farm Bureau Federation, A. B. Kline, wrote to the Commission:

United States immigration policy should be made to serve and support the over-all national policy on international relations.

The late Philip Murray, president of the C. I. O., stated to the Commission, through Alan Haywood, executive vice president:

Our immigration policy is a part of our over-all national policy. For us, at the very time when we are striving to build a mutual security system in cooperation with our allies abroad, to make our immigration and naturalization laws ever more virulently isolationist and antiforeign, not only makes very little sense: it embarrasses us in the pursuit of the wider objectives of our foreign policy. Both our national interest and the deep humanitarianism which has always characterized Americans as a nation require that we reverse this trend of the

last 2 years, and establish a new policy on immigration and naturalization which will be consistent with twentieth century conditions and ideals.

Many of the country's religious leaders expressed the same view that American immigration law is as much a part of our foreign policy as a foreign treaty. The National Council of Churches of Christ, in a resolution (of March 1952) presented to the Commission, stated:

We believe it is of the utmost importance that legislation be enacted that will conform with our democratic tradition and with our heritage as a defender of human rights. The adoption by Congress of enlightened immigration and naturalization laws would add immeasurably to the moral stature of the United States and would hearten those nations with which we are associated in a common effort to establish the conditions of a just and durable peace.

In discussing this resolution, Mrs. Mildred McAfee Horton, officer of the National Council of Churches of Christ, and formerly President of Wellesley College and Director of the WAVES, stated:

Our [immigration] policies (or their administration) have alienated us from parts of the world whose good will is important. * * *

I want the Commission to know that there are people—and many of them—who are more afraid of losing the friendship of our friends and potential friends than we are of the threats of our enemies. There are people—and many of them—who believe that America is safest when she generalizes the principles she accepts for herself and takes seriously the idea that "all men are endowed by their Creator with certain unalienable rights" including "life, liberty, and the pursuit of happiness." Immigration and naturalization policies which thwart those rights for the rest of the world will not permanently strengthen or safeguard the United States of America.

Dr. Paul C. Empie, Executive Director of the National Lutheran Council, called the Commission's attention to the fact that

* * * the new immigration law is not geared to current world needs, but rather is related to historical circumstances of many decades past * * * the refusal to open our doors [to refugees] would be a staggering blow to the strength of our moral leadership in the current ideological world struggle.

The Missouri Synod-Lutheran Church was represented at one of the Commission's hearings by Reverend Werner Kuntz, who said:

Some of the things which I read in Public Law 414 seem more akin to the superiority complex that was spawned out of the foulness of Naziism than to the humanitarian attitude which our fathers taught us. It is not the kind of thinking that one should expect of a nation that has been thrust into a position of world leadership and whose example can shape a better destiny for a disordered world.

The Archbishop of Boston, The Most Rev. Richard J. Cushing, submitted a statement to the Commission which included the following observations:

The above indicated discriminatory and undemocratic features of the McCarran-Walter Law are to my mind a grave potential threat to our domestic development and our international leadership.

Monsignor Edward E. Swanstrom, Executive Director of War Relief Services, National Catholic Welfare Conference, testified as follows:

* * * We need an immigration program that is sufficiently elastic to enable whatever administration may be in office to face up squarely to a domestic and foreign policy which is in keeping with the position of world leadership which the United States enjoys today. It is foolhardy to lose sight of the fact that our immigration policy has a foreign, as well as domestic, impact. Our immigration policy has as great an effect on our neighbors as the technical and economic assistance we are extending abroad. Our immigration policy has an economic, psychological and political character of an extent that would be difficult to measure.

In light of these considerations, I think it is most fortunate that the creation of your commission has given us an opportunity to reassess our entire immigration and naturalization structure and policy * * * We have today an American policy on immigration which is completely outmoded, out of harmony with our ideas and actions, and completely at variance with the foreign policy which we are pursuing in accordance with such ideals * * *

Bruce M. Mohler, Director of the Bureau of Immigration of the National Catholic Welfare Conference, urged that—

The immigration and nationality law of the United States should reflect, or at least be adaptable to, the foreign policy of the country.

Rabbi Abba Hillel Silver, of Cleveland, Ohio, stated before the Commission:

Racial discrimination creates disunity at home and resentment abroad. It interferes with our foreign relations and the role of international leadership which destiny has thrust upon us in recent years. It is one of the fundamentals of our political philosophy and an essential part of our foreign policy to treat all peoples alike, regardless of race or origin. We stand committed to the principle of fundamental human rights for all men alike. * * * We cannot press for international acceptance of these principles and at the same time offend nations and races by discriminating against them in our own immigration laws.

Lester Gutterman, speaking for the American Jewish Committee and the Anti-Defamation League of B'nai B'rith, declared that

* * * our immigration policies and practices are of vital importance in preserving the health of our democratic American society, and play a major role in our country's leadership in the maintenance of a stable world order.

It is significant that during 1952 the Governments of Canada, the United Kingdom, and the Philippine Republic have, through diplomatic channels, called attention to certain irritating inequities and administrative complexities of the Immigration and Nationality Act of 1952.

PROGRAMS OF ACTION

Testimony before the Commission that America's immigration policy is inextricably bound up in our foreign relations is fully cor-

roborated by the actions of our Government. Through the United Nations, through other international organs, and through programs of its own, the United States has participated—often as a leader—in every important postwar attack upon the problems of international population pressure, migration, and resettlement.

Almost every part of the United Nations organization comes into contact, in one way or another, with some aspect of the problem of people moving across borders. In most instances that contact is limited or incidental. In quite a number, however, it is direct and even exclusive.

UNRRA, from 1944 to mid-1947, had a displaced persons program to which the United States contributed some $58 million—not counting the supplies and transportation granted by the Army. From 1947 to January 1952, the International Refugee Organization (IRO) which was solely concerned with refugees, received $237 million, nearly 60 percent of its budget, from the United States. The United Nations High Commissioner for Refugees is getting about $250,000 from the United States in 1952–53, and is seeking to raise more funds. Congress has authorized in the Mutual Security Act of 1952 up to $50 million for Arab refugees in the Near East and up to $45 million for Korean relief—both to be administered by UN organizations.

The Intergovernmental Committee for European Migration (formerly the Provisional Intergovernmental Committee for the Movement of Migrants from Europe) formed in 1951 by 15 governments at the instance of the United States, and now comprising 20 countries, has received nearly $20 million in the last two years from this country. The Organization for European Economic Cooperation—the European coordinating agency for the Marshall Plan and later for the Mutual Security Agency—is concerned with migration as a method of balancing manpower needs for higher production. So also is the North Atlantic Treaty Organization (NATO), whose concern with manpower is more pressing as an aspect of Western defense.

Independently, the United States operated a 4-year program that brought nearly 400,000 displaced persons to this country. A total of about $19 million of United States appropriated funds went into this program. For the President's Escapee Program, to assist Iron Curtain refugees, $4.3 million in appropriations and $1.9 million in counterpart funds have been made available.

The leading role the United States has played in most of these activities, and our financial support, give conclusive proof that this country recognizes the importance of relieving population and refugee pressures and of facilitating the movement of persons. In practice, however, we are faced with the fact that our immigration laws are discriminatory, obsolete, and fail to measure up to the needs of our foreign policy.

American immigration policies have frustrated and handicapped the aims and programs of American foreign policy throughout the period since 1924. The interference is acute today. The contradictions are sharper now in part because the 1952 law is more restrictive than before. The major factor, however, is the new circumstance of American leadership in the world rivalry between democratic freedom and Communist tyranny.

The major disruptive influence in our immigration law is the racial and national discrimination caused by the national origins system. Reference has been made to Japan's reaction to the exclusion act of 1924 and the generally held view among informed people that our discriminatory immigration law was a contributory factor to Japan's attack upon the United States in World War II. However, even now, with the removal of all outright oriental exclusions, the evil seeds of our former policy remain.

It seems quite likely that current Chinese attitudes reflect to some extent the damage done earlier. Certainly Japanese propaganda during the war, both in China and in the rest of Southeast Asia was effective, particularly among intellectuals who were sensitive to the immigration law's implication of racial inferiority. There is every reason to expect that the Chinese Communists will continue to exploit the antiforeignism latent in most of Southeastern Asia for decades, implanted there in some part by the Oriental exclusion features of past American immigration law.

An example of Communist efforts to use our immigration laws to encourage this anti-Americanism is Radio Moscow programs beamed to south and east Asia, in which the Communists have called attention to the color line drawn in United States immigration law. Such a program, on July 5, 1952 (in Korean) contained the following paragraphs:

> The United States Congress on June 27 passed the "McCarran-Walter Bill," which calls for drastic discrimination and restrictions against the nations of China, India, Southeast Asia, and other Asiatic countries, who enter or reside in the United States.
>
> The nature of the new law was thoroughly unmasked by the Congressmen in their debates on the bill. They stressed that the new immigration-restriction bill is very similar to the Nazi theory of racial superiority. The McCarran-Walter law places those nationals of Asian countries who enter or immigrate into the United States in a far more inferior category. It is too well known how the American Government authorities have treated Chinese, Korean, or Indian nations.
>
> The McCarran-Walter law, which has been adopted by the United States Congress, provides further discrimination and restrictions on foreign nationals who enter the United States. However, the law is only one of many things which show the contempt of the American ruling circles, and which spread racial prejudice among the people of the United States against the Asian people.

A large number of witnesses in the Commission's hearings stressed the continuing harm to our foreign relations caused by the discriminations of the national origins law against the nonwhite people of the world who constitute between two-thirds and three-fourths of the world's population.

Asia

The Secretary of State advised the Commission that:

> The lifting of the bar of exclusion caused deep gratification in Asia when the [1952] Act was passed, but the racial discrimination apparent in the triangle provision can be expected to keep alive some feelings of resentment * * * the combination of very small quotas for Asia and the Asia-Pacific triangle provisions still furnish ground for Asian suspicion of United States motives.

This testimony was corroborated by that of a recent eyewitness. Philip M. Hauser, Professor of Sociology at the University of Chicago and former Acting Director of the United States Bureau of the Census, made the following observations to the Commission:

> The existence of such legislation as the present quota system in the statute books of the United States is to be particularly deplored in view of the position of world leadership which the United States has assumed in the almost three decades which have elapsed since the passing of the Immigration Act of 1924. It embodies a vicious and self-incriminating doctrine inconsistent with our position as a leader in the cause of world freedom and democracy. It is among the greatest barriers to our gaining the confidence and trust of many of the peoples of the world. I can document this assertion with what I have seen and heard in my own experience in many parts of the world.
>
> Less than 3 weeks ago I returned from my fourth trip aboard. It was an extended trip of over 14 months, most of which I spent in the Orient, and during which I completely circumnavigated the globe. I can assure this Commission that Public Law 414 is well known to the peoples of the world and that it is not favorably known. It does untold damage to the United States in creating attitudes of distrust and hostility. For example, I have on a number of occasions been embarrassed by Asiatic people who have questioned me about the quota system, as one aspect of what they regard as our racial and ethnic prejudices. Few discussions of world or United States problems failed to elicit some question about United States racial prejudices in policy or deed and some manifestation of puzzlement about, or hostility to, it. It is absurd to think that we can retain our position as the world leader in the fight for freedom and democracy with the peoples whom we explicitly and openly brand in our legislation as undesirable and inferior.
>
> Furthermore, in reenacting the quota system of 1924 into the Immigration and Nationality Act of 1952, we have unwittingly placed into the hands of the ruthless, adroit, and unscrupulous propagandists of the U. S. S. R., a major weapon with which to attack us. As a resident of Southeastern Asia for about a year, I had occasion to listen to Radio Moscow and to read the local news reports of the activities of Russian agents and propagandists. In this critical area, the fate of which may well determine the fate of the world, the U. S. S. R. is skillfully and continuously making the most of our ethnic and racist doctrines as promulgated in Public Law 414.

I have heard on numerous occasions the propaganda blasts of Radio Moscow. Much of its content was so distorted, fabricated, and patently absurd that I am sure it fooled nobody—except possibly its perpetrators. Some of it, however, met high standards of effective propaganda technique, particularly that which, in even small part, could be documented as in the case of their on-the-whole wild and exaggerated depictions of our racial and ethnic prejudices and animosities. I am sure it was not the intention of the drafters of Public Law 414, or of the Congress, to place a powerful weapon into the hands of the U. S. S. R. in their propaganda war against the United States. But I can assure the members of this Commission that its enactment has had just such an effect.

Caribbean Area

As a result of the 1952 act, we have suffered a serious deterioration of our foreign relations in the Caribbean, an area close to America, close to the Panama Canal and the site of important wartime bases. The provision, which gives each colonial area of the West Indies a limited quota within the motherland's quota, a new device to limit such immigration to 100 a colony, has been keenly felt in those colonies as a racial discrimination, since the population of all of them is predominantly Negro.

This situation is serious enough to have led the Secretary of State to discuss it at some length in his statement to the Commission:

In the colonial and other dependent areas, an even less satisfactory situation has come into being. The new Act provides that colonies shall have quotas of 100 each, instead of unlimited use of the quota of the governing country. The difficulties are most clearly evident in the important strategic area of the Caribbean. The fact that this area has been the only part of the Western Hemisphere subject to quotas has always been an unpleasant irritant to these colonial peoples. In the case of the British West Indies, the large and always undersubscribed British quota was open to them. They have not, therefore, felt the practical effects of the discrimination implicit in their unique status in the Hemisphere. No more than 2,500 immigrants have entered the United States from the British West Indies in any one year. Henceforth, however, no more than 800 (100 for each of the 8 British territories) may enter each year. Already, months before the effective date of the Act, various British West Indian legislatures have passed resolutions denouncing these provisions. This is even less to be wondered at when it is remembered that Cuba, Haiti, and the Dominican Republic, all near neighbors of the British territories and equally parts of the Caribbean area, have nonquota status like the rest of the Western Hemisphere. Prominent West Indian leaders and newspapers have protested the obvious discrimination, and both West Indian and British government officials have informally brought the seriousness of the matter to the Department's attention. Further, the United States members of the Caribbean Commission (a body formed by Executive Agreement between the United States, the United Kingdom, France, and the Netherlands to plan for the economic and social development of the Caribbean area) have formally protested to the Department against the colonial quota provisions as being a threat to the work of the Commission itself, as well as to the work of the Department in its relations to the Commission.

This view was substantiated by the testimony from another eyewitness, Walter White, Secretary of the National Association for the

Advancement of Colored People, who declared:

I encountered in the West Indies this summer many examples of anger mixed with shock at both the sharp reduction of immigration from certain West Indian islands and the racial implications of that action. * * * I submit that the McCarran-Walter Act, because of its racial implications against colored peoples from Asia, the Caribbean, and other areas, may well prove equally harmful to the United States not only in Asia but in Latin America.

The Secretary of State summed it up thus:

In view of all this, it is clear that United States immigration policy not only causes resentment weakening the friendship of some of our neighbors, but also causes or emphasizes economic dislocations that weaken those neighbors whom we need as strong partners and who can furnish us with sites for military bases and strategic raw materials.

Africa

Another problem may be in Africa. The Secretary of State raised this issue in his statement:

Other colonial areas that will be of increasing importance to the West are those in Africa. Although there has as yet been no problem there, it should not be assumed that there never will be. Nationalism is growing rapidly in Africa, and Africans are, of course, extremely sensitive to racial discrimination. * * *

Again, one of the chief problems now facing the United States Information offices in Africa is how to combat the anti-American racial propaganda published in local nationalist papers. While with one hand we spend time and money to fight that propaganda, with the other hand we feed the propaganda mill with our discriminatory policies.

Europe

The Secretary of State sees the same situation in Europe:

In Europe, the difficulties facing us result in part from the national origins quota system which is based squarely on the theory that the best Americans are those of particular national or racial origins. This theory, always derogatory to our friends, is increasingly at variance with our protestations of equality and with our efforts to work fruitfully with all peoples. Especially where it strikes countries like Italy and Greece, which are much concerned with emigration as a solution to their population problems, it has engendered soreness and doubt that inhibit progress toward mutual trust.

Similar statements have been made to the Commission over and over again by informed and observant witnesses. The facts available to the Commission bear out the general conclusion that the United States incurs resentment abroad because of the nationality and race discriminations of our immigration law. The most obvious indications of this general resentment can be seen in the countries hit hardest, such as Italy and Greece. The national origins system has been a constant source of irritation in these and other countries and a smoldering cause of official and unofficial disaffection toward the United States. Resentment has been growing more bitter in recent

years; although the United States talks much in Europe about unification and the lowering of barriers, about equality and the mutual interest of the United States and Western Europe, at the same time it continues and further restricts its own immigration laws.

The Commission does not wish to leave the impression that failure to remove discrimination from our immigration laws will necessarily hamper the conduct of affairs at the diplomatic level. There is no evidence that it has done so in the past. **However, the weight of evidence is that fundamental relations between the United States and certain other countries are definitely impaired by our present immigration laws.**

NATIONAL ORIGINS LAW THWARTS REFUGEE AND ESCAPEE PROGRAMS

Among the great humanitarian problems facing the world today are the care and future of the refugees, expellees, escapees, and remaining displaced persons who constitute "unfinished business" in the aftermath of World War II.

Refugees, Expellees, Displaced Persons

There are today some 10,000,000 refugees and expellees of German ethnic origin in West Germany. Over 600,000 persons of Italian ethnic origin are in Italy and Trieste—refugees from Italy's former territories or other areas lost as a result of the war. Greece has some 40,000 to 45,000 refugees of Greek and foreign nationality from the countries of Southeast Europe.

The number of refugees in West Germany is increasing by some 15,000 arrivals monthly from East Germany, exclusive of the escapees of other than German ethnic background. This situation is especially critical in West Berlin. The flow of refugees also still continues into Trieste, mostly from Yugoslavia.

After the conclusion of operations under the Displaced Persons Act, some 7,500 displaced persons still remained as likely eligibles for a visa when all visas were exhausted on December 31, 1951.

In the Far East the situation of 15,000 Chinese intellectuals in Hong Kong and of 7,500 European refugees in Communist China is particularly desperate.

The refugee situation is potentially explosive. Western Germany is an example of this situation. The refugees constitute 20 percent of its population. One-third of the total unemployed in Germany in the spring of 1952 were refugees; over 340,000 expellees still lived in mass camps. Only 30 percent of the expellees then had permanent employment.

Over a year ago the United Nations High Commissioner for Refugees stated:

> The refugee population in Germany shows increasing inclination towards political adventure. The younger generation of the refugee populations faces the future with little confidence in the effectiveness of democracy and its capacity to solve their problems.

Discussing the work of the International Refugee Organization, a subcommittee of the Senate Committee on Expenditures in 1949 reported:

> Because of economic unrest and instability throughout Europe and Asia, the presence of refugees is generally a disturbing factor, both economically and politically. Accordingly, the problem is clearly one of international concern.

A great deal of international effort has gone into various attempts to solve the refugee problem. The United States, as we have seen, has participated actively in most of them, and has contributed a substantial part of the funds for all of them. With such conclusive evidence at hand, it seems superfluous here to labor the proposition that solution of the refugee question has been and continues to be of the greatest importance to this country.

Attention can be more usefully directed to the question of whether the United States has done enough in accepting refugees as well as in planning, administering, and paying for the programs. The same Senate committee report quoted above contains this significant conclusion:

> The accomplishment of its [the International Refugee Organization's] mission has been substantially hampered by the failure of the nations of the world to assume their full responsibility for the solution of the displaced persons and refugees problems created by World War II. * * *
>
> With respect to the United States, the problem is particularly acute . . . If our Government is to maintain leadership in this vital matter, it must carry out its declared policy by effective measures aimed at liberalizing the admission of displaced persons.
>
> Until the nations of the world, including the United States, are ready and willing to meet these problems—in the only manner in which they can be met—by eliminating certain restrictions with respect to immigration, this problem will never be solved.

This conclusion is as true today as when first announced by the Senate committee in 1949.

The basic need for the refugee-expellee-escapee-displaced person problem is opportunity to migrate to another country. This does not mean that all of the 10,000,000 German refugees want or need to emigrate. Most of them are finding homes in Germany. However, the chance to emigrate is vitally necessary for some of these and other refugees, both as a real and as a psychological safety valve in a situation of tension and frustration. Needless to say this is not a problem

for the United States alone, but for all the nations of the free world together.

The International Refugee Organization resettled 1,038,750 refugees in 4½ years in 48 countries and an equal number of other areas. Of this total number, the United States took less than one-third, through the Displaced Persons Commission. The Displaced Persons Act, as amended, also brought to the United States some 55,000 German expellees and 2,000 Italian refugees. When the Displaced Persons Commission's work ended in the summer of 1952, all visas authorized under the Displaced Persons Act had been issued to displaced persons, German expellees and Italian refugees and some 400,000 people had entered the United States under the act. Yet the Displaced Persons Commission reported that there were still under consideration, likely to receive visas if more were available, 32,000 German expellees, 1,500 Italian refugees, and 7,500 displaced persons. These are the so-called "pipeline cases". This is clearly "unfinished business."

The refugee problem is much smaller now; it has bounds; it can be solved within a fairly short space of time. The United Nations High Commissioner for Refugees and the Intergovernmental Committee for European Migration (formerly PICMME) are handling it as best they can. The Commission is convinced that these international agencies should be given the strongest support by the United States and the rest of the free world. But the obstacle that faces them is the closing of doors to immigrants in the United States, Canada, Australia, and elsewhere.

The refugee problem cannot be solved by closed doors. And as long as the problem continues, the United States will have to continue helping, in one way or another, to support the refugees. The United States will continue to spend more money and effort to bolster the Western European economies; yet it will continue losing good will because of its restrictive immigration policy. And most important of all, the United States will continue to pay the much larger price that results from the progress that communism and neo-nazism and neo-fascism make when frustration overtakes the people and countries whose refugee and expellee problems remain unsolved. Where the United States has taken the lead, as in the displaced persons program, the other countries have followed our example.

Escapees from Iron Curtain Countries

The escapee situation is even more critical at the present time. There are 20,000–25,000 persons, housed in camps in Germany, Austria, Italy, Trieste, Greece, and Turkey, who have escaped from behind the Iron Curtain since January 1, 1948. These escapees are non-

Germans. They are, in general, the people from behind the Iron Curtain who have most recently arrived, risking life and limb, leaving behind everything but the clothes on their backs, in order to live in freedom. Some of them have come because of the enticements held out to them by the Voice of America or by other Western propaganda for democracy.

Now that the Communists have tightened up the border watch, the flow has dropped to about 500 a month. How many try and fail, paying for the attempt with their lives, is anyone's guess, but at one point the mortality rate was estimated to be over 80 percent.

Unfortunately, escapees are not likely to find the welcome and freedom they thought would await them. They arrive in countries already surfeited with refugees. They cannot, for the most part, continue on to the United States, because of restrictions in our immigration law. And so most of them are put in camps, without work, with none of the comforts and few of the privileges or rights of free men.

The United States has a special responsibility toward these people, and a special interest in them. At least some of them have come because our propaganda lured them. If sacrifice earns the right to liberty, they have earned it. We cannot turn them away and expect those still behind the Iron Curtain to believe us ever again.

Furthermore, they are, generally speaking, convinced opponents of Communist tyranny. They have experienced it, and they want no more of it. They can be helpful to us. And yet, we have done very little for them and nothing to welcome them to our shores.

Out of the current Mutual Security appropriation, a fund of $4,300,000 has been set aside to help the resettlement of escapees. The announcement caused hopes to rise among those escapees in camps in Europe. It brought a short-lived increase in the rate of escape through the Iron Curtain. Its results have been negligible because the fund is too small and because the United States and the other free nations have formulated no adequate programs for their care and resettlement.

The Commission believes that effective measures should be taken and adequate appropriations made to provide reasonable reception, care, and migration opportunities for escapees from Communism.

The escapee problem is not a partisan political issue. It is generally agreed that something should be done immediately. President Truman said in his special Message to the Congress on March 24, 1952:

* * * specific aid and assistance should be provided for the people who are fleeing at the risk of their lives from southern and eastern Europe. These people are Balts, Poles, Czechs, Slovaks, Hungarians, Bulgarians, Rumanians, Albanians, Ukrainians, and Russians.

These people face a desperate situation. Not only do they arrive destitute, with only what they can carry on their backs, but they find themselves in to-

tally strange lands among strange peoples speaking strange languages. The local authorities do not have adequate resources to care for them properly. These people need better care when they first arrive, and they need assistance if they are to move on and resettle elsewhere.

The miserable conditions in which these fugitives from communism find themselves, and their present inability to emigrate to new homes and start new lives, lead inevitably to despair. Their disillusionment is being effectively exploited by Communist propaganda. These men and women are friends of freedom. They include able and courageous fighters against communism. They ask only for an opportunity to play a useful role in the fight for freedom. It is the responsibility of the free world to afford them this opportunity.

He recommended a program authorizing 21,000 escapees to migrate to the United States over a 3-year period, plus supplemental reception, care, payment of cost of ocean transportation, and a program of education for leadership for those who choose to remain in Europe.

President-Elect Eisenhower said in a speech on October 17, 1952:

A contest for world leadership—in fact, for survival—exists between the Communist idea and the American ideal. That contest is being waged in the minds and hearts of human beings. We say—and we sincerely believe—that we are on the side of freedom; that we are on the side of humanity. We say—and we know—that the Communists are on the side of slavery, the side of inhumanity.

Yet to the Czech, the Pole, the Hungarian who takes his life in his hands and crosses the frontier tonight—or to the Italian who goes to some American consulate—this ideal that beckoned him can be a mirage because of the McCarran Act.

Secretary of State Acheson said, in his statement to the Commission:

Another special problem of equal importance is that of the escapees from Communist countries. These people arrive in the border countries destitute. They have lost their homes, their property, and often their families. They have a deep hatred for communism—they know from experience what it means. They have a deep love of freedom, having been so long without it. If they are left to shift for themselves in lands already burdened with surplus population they will not be able to find work, and will be disillusioned about the meaning of Western Democracy. As their disillusion grows, and word of it spreads, it will be difficult for us to convince the captive populations behind the Iron Curtain that the free world is interested in their fate. With our aid other countries are trying to make possible a new life for these escapees. But these efforts do not by themselves meet the need. To welcome escapees to the United States on a scale impossible under the present quota restrictions, would be a vital step in making our policy toward the satellite peoples effective.

Prof. Philip E. Mosley, president of the East European fund set up by the Ford Foundation, and member of the Russian Institute of Columbia University, testified:

I feel that we will strengthen our own country and the free world . . . if we will open a door, or rather if we will reopen a door to the people who under intolerable pressure are escaping every day and every week from the Iron Curtain countries.

American foreign policy toward the countries behind the Iron Curtain, particularly the satellites, is to emphasize that their people would

be better off on our side. **But in connection with escapees, a most vital aspect of the "cold war," American immigration law lies directly athwart our foreign policy.**

RIGID IMMIGRATION LAW PREVENTS MEETING SPECIAL NEEDS

The foreign relations of the United States reflect not only our needs and desires, but also those of other nations. One of the most acute special needs of some key foreign countries today is for relief of overpopulation. At present they cannot make constructive use of all their population.

Serious overpopulation problems exist in two separate areas of the world: (1) certain countries of western Europe, and (2) southern and eastern Asia. However, the problems and needs of these areas differ widely. The needs of the overpopulated European countries are for migration as well as economic development. The needs of the overpopulated Asiatic countries, except perhaps Japan, are *not* for migration but rather for economic development.

Europe

Seven years after the end of hostilities in World War II, western Europe is still beset with a serious problem of excess population, concentrated principally in the Netherlands, West Germany, Italy, and Greece. Hugh Gibson, Director of the Intergovernmental Committee for European Migration, gave the Commission an estimate of some 3,500,000 people (including refugees) who cannot be absorbed into the economies of the countries in which they find themselves.

The Netherlands.—The overpopulation of this country has become so serious that in September 1951 Queen Juliana wrote to the President of the United States to urge his initiative in finding international means to deal with the whole European overpopulation problem.

With the highest birth rate in northwestern Europe, the Netherlands needs migration opportunities for its young people at least to the amount of 25,000 per year in addition to the current emigration program.

West Germany.—The overpopulation problem is indistinguishable from the refugee-expellee-escapee-displaced persons problem. According to the Bonn Government, some 1,350,000 of its people are potential emigrants.

Italy.—This nation's situation is the most acute of all in Europe. Its already overburdened population has been augmented by some 480,000 Italians repatriated from former colonies and other areas in the Mediterranean not presently open to Italian emigrants. Another

125,000 Italians fled to Italy from land ceded to Yugoslavia in the Peace Treaty.

Italy's excess population is concentrated primarily in the agricultural southern part of the peninsula and in Sicily. It is in those areas that the neo-Fascists have their greatest strength. In the same areas the Communists are currently making a strong bid for adherents. In the same areas one finds also the most frequent and general expression of popular demand for emigration as the only hope for betterment.

Prime Minister de Gasperi made a special plea to the United States Government in 1951 for cooperation in providing migration opportunities for Italy. The failure of our immigration law to accord such cooperation has, in the judgment of competent and objective observers, weakened the prodemocratic forces in Italy. The critical nature of this matter can be seen from the reports of competent American observers in Italy to the effect that the population problem and its consequences may be crucial in elections to be held in the spring of 1953.

Italy's geographic position in the Mediterranean makes it of the greatest importance to our security and to world peace. It is not without significance that the NATO conference in Lisbon early in 1952 adopted a resolution concerning "the importance of emigration particularly for Italy, but also for other countries." Nor is it an accident that the country with the most serious overpopulation problem, Italy, has the largest Communist Party in Western Europe.

Overpopulation, in addition to its political effect of stimulating unrest and the search for radical remedies, has clear economic consequences, most of them stemming from unemployment. Our immigration restrictions work against our foreign policy in Italy.

Unemployment in Italy has been high ever since the war and remains today at about 2,000,000 totally unemployed. These people are a burden on the public economy since the State pays unemployment benefits which might otherwise be productively invested or used to build stronger military defenses.

In addition to unemployment, underemployment in Italy is estimated in the neighborhood of 2 to 2½ million people. Underemployment constitutes an obstacle to the private economy in that an excess of hands reduces the impetus to raise farm and factory productivity. As long as the United States continues to support the Italian economy, a significant part of our effort will be nullified by these factors. Relief of the overpopulation and of the consequent underemployment and unemployment would permit more efficient and effective use of United States economic and military aid to Italy.

A frequent issue in connection with Italian overpopulation is the mistaken belief that the country has an unduly high birth rate. Actually, Italy's birth rate is lower than that of the Netherlands. It is lower than that of France, the traditional example of a country whose

birth rate is alarmingly low. Surprisingly, but nevertheless true, the Italian birth rate is now lower than that of the United States. Italy's birth rate has been declining for several generations and if this decline continues for the next 15 years it will no longer exceed the death rate. Italy's population growth will then cease—but its overpopulation crisis is now.

Italy needs migration opportunities for another 170,000 people a year, as a supplement to the even greater additional number for whom resettlement opportunities are already in prospect.

Greece.—Greece has a triple problem of internal refugees uprooted during the recent civil war, refugees from abroad, and native population growth. The Greek Government believes that emigration opportunities must be provided for 30,000 of its surplus population a year.

The situation in Western Europe has been described by Hugh Gibson, Director of the Intergovernmental Committee for European Migration, as follows:

> While the refugee and surplus population problem faced by individual countries of Western Europe varies in its nature, the situation as a whole presents certain common features. . . . For all the countries it is a problem which causes deep concern to the governments by reason of its damaging effect upon political, economic, and social conditions; the situation as a whole is one of the most serious obstacles to the stability of Western Europe in general.

The refugee-overpopulation situation in Western Europe has the following general characteristics:

(1) Overpopulation exists in certain countries and causes unemployment and underemployment;

(2) Unemployment provides a fertile field for extremist agitation of Right and Left;

(3) It constitutes a drain on the economy of these countries in a variety of ways;

(4) The objectives of American programs of aid to these countries, whether economic or military, are hampered by the consequent political and economic instability;

(5) A small amount of emigration can have lasting and successful effect in resolving the difficulties that arise from overpopulation in all these European countries.

Asia

Except for Japan, which resembles the European countries in this respect, the situation in Asia is completely different. The problem of refugees, where it exists, is predominantly internal and cannot be distinguished from the problem of overpopulation. The structure and birth rate of the Asian populations, and the stage of economic development of their countries, are all quite different from those of the Euro-

pean countries. Only in Japan, with its rapidly declining birth rate can migration offer real relief for population pressures in the next few years.

The best scientific and professional advice available to the Commission is to the effect that migration offers no solution to overpopulation on the Asiatic mainland. No conceivable migratory movement could provide substantial relief for present Asian surplus population, much less for the annual growth of some 10 million a year in non-Communist Asia. For the Asian mainland, the need is for better use of resources and economic development where the people now live.

On the other hand, for Western Germany, Greece, Italy, the Netherlands, and perhaps Japan, the need is different. Emigration can serve as a safety valve for transitory problems of critical population pressures. These countries have reached a stage of economic development and population structure at which both the need and desire for migration is most acute and where its result would be soon effective. This is not to say, of course, that economic development is not also equally important in these particular countries. However, a concerted international effort to deal with the burden of present overpopulation would serve to bring about a relatively manageable situation in which the natural population increase of such countries can be readily absorbed for productive use within their own economies.

These countries need and can have substantial results from immediate international efforts to move some of their surplus population. All reliable scientific evidence indicates that effective international migration programs can and will have a lasting and successful effect for these countries. The contrary is true for the Asian mainland.

The same general situation prevails as to refugees. In Europe the problems of refugees, expellees, escapees, and displaced persons are now finite. With a coordinated international effort, in which the United States would play its part, the end of these European refugee and related problems is in sight.

Unfortunately the same cannot be said for the refugee situation in Asia, where the dislocations of World War II have been equalled if not exceeded by the dislocations of the postwar period. Apart from the Arab refugee situation in the Near East, the refugee problem in Asia is not distinct from the general problem of overpopulation in those areas. For example, the partition of India set in motion 18,000,000 refugees, an exchange of Hindu and Moslem. This occurred principally in the Punjab and in Bengal. However, the acute political, social, and economic problem in India is not in the Punjab, but in South India, especially Madras, where there is no refugee problem.

The problems of overpopulation and refugees in Asia are of vital

importance to world peace. Their solution, however, cannot—as it can in Europe—find major relief through migration.

The Remedy

No one has suggested that emigration is the only or whole solution of these population problems. Nor has anyone suggested that the United States alone should try to meet them. They are international problems. However, the Commission is convinced that the inflexibility of our present immigration law prevents the United States from making any special contribution to the solution of these issues.

Anything which has the effect of weakening our partners, as overpopulation certainly does, has also the effect of weakening the security of the United States. Since our foreign economic and military policies are devoted in large measure to building the strength of these very countries, failure to help them solve the problem of overpopulation quickly works against their strength and our safety. Each of the four European countries mentioned is part of NATO or involved in plans for western defense, and therefore is essential to our own security protection. And Japan occupies a critical role in Asian problems.

The Secretary of State advised the Commission:

> A special effort to reduce the overpopulation problem to manageable proportions, would be a most effective step toward our foreign policy goals.

In a joint declaration of May 1950, the Foreign Ministers of France and the United Kingdom and our Secretary of State said:

> In the course of their discussions the Foreign Ministers have recognized that the excess of population from which several countries in Western Europe are suffering is one of the most important elements in the difficulties and disequilibrium of the world.

In a special statement to the Commission, Hugh Gibson, Director, Intergovernmental Committee on European Migration, wrote:

> * * * the establishment of the Committee, as a result of American initiative based on broadmindedness and imagination, was the first attempt to approach on an international basis a problem which has been one of the most serious causes of insecurity and conflict in Europe for some years past and has driven certain countries, for lack of international understanding, to seek purely national solutions and to adopt policies, the international implications of which were highly dangerous. International cooperation, and the solutions to this problem thereby made possible, are essential for mutual understanding between the members of the Atlantic community as well as between the members of the European community. In that connection, the refugee problem, while it has economic, demographic, and social aspects, is obviously related to the defense of freedom and therefore highly political in character.

Three facts are obvious in this situation: (1) the United States alone cannot solve the problem of European overpopulation; (2) the

problem is one of international concern in whose settlement the United States is deeply involved; and **(3) the present United States immigration law impedes our participation in international migration efforts, and thus prevents us from exercising the kind of leadership that would encourage other countries to admit a larger number of European immigrants.**

TEMPORARY VISITORS

Many applicants for visas desire to visit the United States for only a short time. They may be students, teachers, writers, scholars, businessmen, lecturers, concert musicians, tourists, or other visitors. They may plan to visit for a day or so (for example, in the case of a scientist to address a meeting), or stay a few weeks or as much as a year, or even just to pass through the United States on the way to a destination in Canada, Mexico, or another country.

In any event, they must have a visa from a United States consular officer abroad before leaving on their trip. And even if they are to be in the United States only for several hours, they must satisfy substantially all the health, financial, security, and other requirements that apply to permanent immigrants.

In recent years, an increasing number of visitors have been subjected to denials, difficulties, and delays in getting visas. In practically every case the problem is one of security clearance. The process of security investigation has become more rigorous and time consuming. And even where the visa is finally issued, the nature of the process may diminish international good will toward the United States.

From testimony before the Commission, it would appear that the greatest number of current cases involve foreign scientists, although businessmen, journalists, technical assistance team members, artists, and writers have also been affected. It should be remembered that, as to foreign authorities in the arts and sciences, many of the applications for visas are prompted by urgent invitations from distinguished American institutions.

The number of people involved in the problem is probably small, although no definite statistics have been made available to the Commission. The international repercussions, however, are disproportionate to the number for the simple reason that the persons affected generally occupy prominent places in the social, commercial, or intellectual life of their countries. Their opinions carry more than ordinary weight and their prejudices are likely to be more widely reflected in the views of the country's press and official documents.

If it becomes known that any of them has been denied a visa to visit the United States, the fact makes the headlines in both the Communist

and non-Communist press. If the individual concerned believes the denial to be mistaken or unjust, and chooses to complain about it, he wields a good deal of influence on the attitudes of his friends and associates. In the light of our desire to exercise leadership among free nations, it is especially important to the United States that the favorable impression these people have of America be not unnecessarily diminished and that they be not subjected to petty annoyances, irritations, and embarrassment.

Among scientific groups abroad, particularly in the United Kingdom and France, comparisons have been voiced between the Soviet Iron Curtain and the American "Uranium Curtain." This reaction is reflected to a certain extent in some of the most influential foreign newspapers. The *Manchester Guardian* of England, in particular, has commented on at least two occasions, concluding one editorial with the statement that:

> This visa business is doing the United States incalculable harm and is undoing all the lavish propaganda about its noble leadership of the free world.

Jean Jacques Servan-Schreiber, an influential French journalist who is usually friendly toward this country, last September wrote that the new immigration law

> is stupid, inefficacious and does more harm to United States prestige than all the Soviet propaganda.

Another consequence is that international scientific congresses are beginning to avoid the United States. The International Congress of Psychology, for example, was originally scheduled to meet in this country in 1954. It has been shifted to Montreal, Canada, specifically in order to avoid embarrassment to members who might be denied visas to this country or whose visas might be delayed until months after the meeting was over. Similar reasons governed the decision of the International Congress of Genetics to meet in Italy in 1953 and probably in Canada the following year rather than in the United States. The International Astronomical Union declined an invitation to hold its next meeting in this country because of the visa situation. Although the International Federation of Documentation and the International Physiological Congress gave other reasons for declining invitations to meet here, it is understood, the Commission was told, that similar considerations figured in their decisions.

A third consequence, more important for national security than foreign relations (but not unrelated to the strength of the Western World), flows from the denial of visas to foreign scientific visitors. For example, Enrico Fermi, the refugee Italian scientist who played a crucial role in the development of atomic energy during the war, would probably have great difficulty entering this country today. Some of America's most distinguished scientists warned the Commission that

such intellectual strangulation was dangerous for our own national security.

Dr. Vannevar Bush, President of the Carnegie Institution of Washington, and former Director of the war-time Office of Scientific Research and Development, testified as follows:

My principal criticism of our law in regard to immigration and naturalization, as far as the scientist is concerned, is that the shoe has always seemed to be on the wrong foot. Instead of placing our emphasis on the desirability of attracting the right individuals, most of our emphasis has been on the problem of keeping the wrong ones out.

. . . I am quite sure that this has given a bad impression throughout the world of our attitude in this country toward scientists generally . . . Even where there has been no exclusion . . . the impression has been very bad, indeed . . .

Dr. Alan T. Waterman, Director of the National Science Foundation, advised the Commission as follows:

I would like, Mr. Chairman, to submit for the record the written statements on this subject by the Department of Defense, the Atomic Energy Commission, and the Department of Agriculture. Upon the basis of information available to the Foundation through these channels, it is clear that the provisions of the present immigration laws governing the temporary admission of aliens to this country, and the administration of these laws, have created a problem. If the solution to this problem is long delayed a seriously detrimental effect on the strength of science in this country may be expected. Any such handicap to our progress in science will in turn unquestionably react adversely on our welfare and security in the years ahead. A further consequence would be a weakening of cooperative relationships with friendly countries in an important component of our common defense, namely, scientific research and development.

The statement from the Atomic Energy Commission read, in part, as follows:

The Commission has always encouraged visits by foreign scientists to the United States when such visits would make a constructive contribution to the atomic energy program insofar as they were consistent with security requirements. We are particularly aware that the development of atomic energy is based in large part on discoveries which took place in foreign laboratories and we still have need for the many fundamental contributions which foreign science can make. Nuclear physics and chemistry, for example, are fields where more basic knowledge is urgently needed and where the traditionally free exchange of basic scientific information is essential to maximum progress. Foreign science can and does make really significant contributions to these fields. It is important, therefore, that this source of help not be denied the United States. Certainly any legislation which denies to the United States the free exchange of basic scientific information may impede the research and development programs of the Commission and its contractors.

Howard A. Meyerhoff, representing the American Association for the Advancement of Science, advised the Commission:

I have no wish to leave with the Commission the impression that scientists have a distorted perspective on the visa question. The colleagues who have sup-

plied me with information have mentioned as many cases in which foreign scientists have entered this country without trouble or delay, as they have cases where unwarranted difficulty or outright refusal was experienced. They are rightly concerned, however, with the imperfections of the law and its administration, because these imperfections are creating ill will that is being reflected in the increasing number of decisions on the part of international scientific bodies not to schedule meetings in the United States. If this trend continues, American science faces the threat not merely of becoming provincial but also of becoming atrophied to the point where the national welfare and national security will suffer. Security and welfare are founded on knowledge, only part of which originates within the confines of the United States.

The Federation of Atomic Scientists made similar representation to the Commission in several of its hearings. Professor Edward A. Shils, of the University of Chicago, who edited a special edition of the *Bulletin of the Atomic Scientists*, for October 1952, devoted to visa policy, testified that the subject had "very great import for the United States and America's foreign relations." He said of our present visa policy:

Now this is not only injurious to American science and injurious therefore to American development and welfare and to American intellectual achievement; it is injurious to the achievement of the ends of foreign policy. Every time a visa is refused to an eminent European scientist or scholar, and many times when it isn't, it gets into the Communist press. Of course, . . . Communists believe what they believe and . . . [we] can't do much about that, but there are a large number of people in Europe who are not Communists, who are pro-American and want to be, and they find it difficult to defend the American policy when America behaves in this way.

The situation is broader than the admission of scientists. The American Academy of Arts and Sciences took formal action, through its Council, as follows, in part:

The American Academy of Arts and Sciences is gravely concerned by the formidable barriers which now exist to the entry of our foreign colleagues in the arts and sciences into this country.

. . . These barriers are a serious threat to the progress of American science and learning . . . the present restrictions on the entry of foreign scholars to this country are actually dangerous even from the point of view of national security. Moreover, the obstacles to the admission of distinguished foreign visitors to this country have results that are often extremely damaging to American prestige abroad. They diminish, among some of our best friends in foreign countries, the trust and respect in which we are held, and thereby tend to nullify some of the major aims of our foreign policy.

This same embarrassment to our foreign relations was called to the Commission's attention by Dudley T. Easby, Secretary of the Metropolitan Museum of Art, Dr. Henry Allen Moe, Secretary of the John Simon Guggenheim Memorial Foundation, and Professor Sidney Painter, director of the American Council of Learned Societies, among others.

CONCLUSIONS

The Commission is convinced that our present immigration law has a detrimental effect upon our foreign relations in a variety of ways.

Discriminatory racial and national restrictions in immigration law have made enemies for the United States in the past, and will continue to lose us friends as long as they remain in the law. In this respect, our immigration law conflicts with American propaganda abroad, an important arm of foreign policy, which emphasizes equality and mutual interests among the free nations. Present immigration law causes large areas of the world, of greatest importance to our own national security and welfare, to resent us and view us with growing distrust.

The immigration laws of the United States frustrate our foreign policy by hindering our efforts in friendly and allied countries to encourage their political stability and unity, rebuild their economies and strengthen their military power.

Rigidity in the national origins quota system prevents the United States from acting quickly and effectively in helping to relieve refugee and overpopulation problems when and where they arise. Population pressure gives rise to economic and political instability and thus augments the very conditions which foreign aid programs of the United States are designed to ameliorate. Moreover, the inability of the United States to deal flexibly with refugee and overpopulation pressures reduces the influence this country might exert on other countries to help solve these problems.

Our present national origins quota system prevents the United States from giving asylum to escapees from the Iron Curtain countries. Besides being contrary to American traditions, this barrier tends to disillusion the escapees, and denies us the value of their help in organizing effective pro-democratic appeals. The present immigration law is inconsistent with the aim of our foreign policy to uphold the values of freedom in contrast to the chains of Communist dictatorship. The effect is to blunt one of our most important psychological weapons in the cold war.

Our immigration law and procedures have had the effect, in some instances, of keeping out temporary visitors who should be welcomed to this country. The testimony has shown that important circles in friendly foreign countries are growing resentful of American immigration policy, and are losing confidence in the sincerity of American professions of devotion to democracy.

The Commission's study of the effect of the present immigration laws upon our foreign relations leads to this conclusion: in order to

advance our national interests, strengthen our security, and contribute to the achievement of our foreign aims, American immigration policy should be free from discrimination on the basis of nationality, race, creed, or color and should be flexible enough to permit the United States to engage fully in such special migration efforts as may be important to the security of the Free World.

Part III

A UNIFIED QUOTA SYSTEM

The Annual Immigration Quota

Until 1921 there was no numerical limitation of immigration into this country. The first national census in 1790 recorded a population of slightly under 4,000,000. Immigration continued to mount gradually. Some have estimated that between 1790 and 1820 approximately one-quarter of a million immigrants entered the United States. From 1841 through 1920 immigration into the United States averaged some 411,000 persons per year. The largest annual number of immigrants to enter the United States was 1,285,349 in 1907.

The 1921 act placed the first maximum ceiling upon immigration. It limited the number to 357,800 a year, of which 198,000 were to come from Northern and Western Europe, and 156,000 from Southern and Eastern Europe. Each country's quota was limited to 3 percent of the number of people born in that country who were reported in the United States census of 1910.

The 1924 act further restricted the number of immigrants and had two separate formulas. The first, and temporary formula, authorized the admission of 165,000 a year. Of this number, 141,000 a year were to be from Northern and Western Europe; 20,000 from Southern and Eastern Europe; and 4,000 were non-Europeans. In this formula the 3 percent of the 1921 act was reduced to 2 percent and the 1910 census was changed to the 1890 census.

The second formula of the 1924 act become effective in 1929 and with slight changes continues to the present time. This authorized the admission of 153,714 immigrants based on a total of 150,000 plus minimum quotas of 100 for all countries. By 1952, this figure had become 154,277 by virtue of minor changes. The total approximated one-sixth of 1 percent of the white population in the 1920 census (the last available at the time the 1924 act was passed.)

Ever since the Act of 1924 became effective, immigration for permanent residence in this country has been divided into two classes, quota and nonquota. Quota immigration is that which, under existing law, is limited by the total number assigned annually to each nationality, area or country. The practice in such cases is to admit an alien

by assigning a number to him from the quota allotted to his nationality, area or country; and no quota visa is issued unless a number is available.

In addition to the quotas both the 1924 and 1952 acts authorize the admission without numerical limitation of nonquota immigrants for permanent residence. These principally include alien spouses and children of American citizens and natives of the independent nations of the Western Hemisphere. Under the Immigration Act of 1924 ministers and teachers were also permitted to immigrate to the United States as nonquota immigrants. However, under the 1952 Act, teachers are required to obtain a quota number and to wait until that number is reached.

The most recent step in the legislative declaration of a maximum quota was in the act of 1952 which set a maximum authorization of 154,657. This figure was based on a flat one-sixth of 1 percent of the white population in the 1920 census, excluding Negroes, American Indians, and other nonwhite persons in the population.

A comparison of the quotas allotted to individual countries under the four different versions of the quota system is indicated in the following table:

Table 3.—*Annual Immigration Quotas, by Country, Under Successive Immigration Laws: 1921–1952*

	1921 act 3 percent 1910	1924 act 2 percent 1890	1929 National Origins	1952 Immigration and Nationality Act
Total	357, 803	164, 667	153, 714	154, 657
Asia	492	1, 424	1, 423	2, 990
Africa and Oceania	359	1, 821	1, 800	2, 000
Europe	356, 952	161, 422	150, 491	149, 667
Northern and western Europe:				
Belgium	1, 563	512	1, 304	1, 297
Denmark	5, 619	2, 789	1, 181	1, 175
France	5, 729	3, 954	3, 086	3, 069
Germany	67, 607	51, 227	25, 957	25, 814
Great Britain and Northern Ireland	77, 342	34, 007	65, 721	65, 361
Irish Free State		28, 567	17, 853	17, 756
Netherlands	3, 607	1, 648	3, 153	3, 136
Norway	12, 202	6, 453	2, 377	2, 364
Sweden	20, 042	9, 561	3, 314	3, 295
Switzerland	3, 752	2, 081	1, 707	1, 698
Total northern and western Europe	197, 630	140, 999	127, 266	126, 131

Table 3.—*Annual Immigration Quotas, by Country, Under Successive Immigration Laws: 1921–1952*—Continued

	1921 act 3 percent 1910	1924 act 2 percent 1890	1929 National Origins	1952 Immigration and Nationality Act
Southern and eastern Europe:				
Austria	7, 342	785	1, 413	1, 405
Czechoslovakia	14, 357	3, 073	2, 874	2, 859
Greece	3, 063	100	307	308
Hungary	5, 747	473	869	865
Italy	42, 057	3, 845	5, 802	5, 645
Poland	30, 977	5, 982	6, 524	6, 488
Portugal	2, 465	503	440	438
Rumania	7, 419	603	295	289
Union of Soviet Socialist Republics	24, 405	2, 248	2, 784	2, 697
Turkey	2, 654	100	226	225
Yugoslavia	6, 426	671	845	933
Total southern and eastern Europe	155, 585	20, 423	23, 235	23, 536

THE COMMISSION'S RECOMMENDATIONS

The Commission believes that there should be a maximum ceiling on the number of quota immigrants who should be admitted into the United States each year. The Commission recommends continuation of the use, on a nondiscriminatory and current basis, of the formula in the 1952 Act. The maximum quota to be authorized for admission into the United States in any year thus, would be one-sixth of 1 percent of the total population in the last available census. Specifically this means for the present, the use of the 1950 census instead of the 1920 census, and it means that the population base to which the one-sixth of 1 percent ratio is applied shall include Negroes, American Indians, and other nonwhite peoples. The last total population of the United States and its distribution by white and nonwhite is shown in the table:

Table 4.—*1950 Enumerated Population of the United States, by Race*

Race	Number
All races	150, 697, 361
White	134, 941, 622
Negro	15, 042, 692
American Indian	343, 410
Other (Asiatics)	369, 637

One-sixth of 1 percent of the total 1950 population of the United States is 251,162. Since the proposed percentage indicates a relationship between an annual maximum volume of immigration and the population of the United States, that percentage should apply to the latest available population data. The House Judiciary Committee in 1952 stated that it recognized the fact that revision of immigration quotas might be necessary on the basis of a later census, and requested the United States Bureau of the Census to undertake the necessary studies.

A fixed volume of immigration each year means a constantly declining ratio of immigrants to the total population because of the natural increase in the population. On the other hand, if the immigration quota is a fixed percentage of the population, then the amount of immigration would increase proportionately with the growth of the total population.

The Commission finds no justification for the elimination of Negroes, American Indians, and other nonwhite residents from the population base to which the one-sixth of 1 percent is to be applied. It is a discriminatory and unwarranted provision which should be eliminated from the law. **The Commission recommends that the population base include the total number of people in the United States, without regard to color, race, or national origin.**

THE UNITED STATES CAN ABSORB 250,000 QUOTA IMMIGRANTS ANNUALLY

The capacity of the United States to absorb and profit by substantial migration is discussed in Chapter 2. Many expert witnesses addressed themselves to the question of the number of immigrants the country can safely receive.

The Secretary of Labor, in his testimony before the Commission, stated:

> . . . we could safely absorb substantially more than the 155,000 quota immigrants that are authorized by Public Law 414 . . . The peak immigration in recent years was approximately 250,000 in 1950. I am not aware that it caused any economic or social dislocations or that American workers were adversely affected.

Subsequent to the Commission's hearing, the Secretary of Labor stated in a public speech:

> . . . Our experts in the Department of Labor have tried to estimate the effects on our population of a larger number of immigrants in the years immediately ahead. I want you to know that their figures and their analysis show this Nation could absorb several hundred thousand every year, under present conditions, adding only the most negligible percentage to our population and placing no burden on our economy . . .

The Assistant Secretary of Agriculture, testifying for the United States Department of Agriculture, noted that the Department had supported legislation which would admit 100,000 persons a year, for 3 years, in addition to the normal 154,000 allowed under the quotas. He informed the Commission that:

. . . benefits would result from such additional immigrants to our country as a whole and to agriculture in particular.

Some of the leading population experts of this country testified before the Commission. The director of the Office of Population Research of Princeton University, Prof. Frank Wallace Notestein, advised the Commission as follows:

Within the scope of a reasonably small migration—one of the general order of 5 million within 10 years—it is possible that a program might be designed that would work to our own advantage as well as to the advantage of selected regions of origin.

He stated that there was no proof that it would do the slightest harm to our economy.

The former Acting Director of the Bureau of the Census, Prof. Philip Hauser of the University of Chicago, testified:

"The present numerical limitation is absurdly low . . . [and is] unrelated to the needs of the United States. . . This figure of 250,000 by no means represents the upper limit of immigrants which we could safely absorb . . ."

Organized labor testified before the Commission, in its various hearings around the country. Labor's views are especially significant in this regard not only because of its obvious desire to protect the interests of American labor, but because of its historical attitude of opposition to liberal immigration legislation. But its views are different now.

Philip Murray, late president of the Congress of Industrial Organizations, submitted his views to the Commission. After pointing out that until 1924, immigration amounted to 1 percent of the current population, he stated:

I do not believe that any evidence has ever been adduced that immigration on this scale adversely affected wage scales in this country or the economy of the country: if anything the evidence seems to be directly to the contrary. Hence, it appears that this country could, without danger to its wage scales or economy, absorb each year a substantial number of immigrants.

The American Federation of Labor also testified before the Commission. It pointed to its earlier espousal of legislation which would have increased the total authorized quota and special immigration to over 250,000 a year for 3 years, and then stated:

At best, we can only say that, under the prevailing economic conditions, a total annual rate of normal as well as emergency immigration of between 200,000 and 250,000 a year would not be excessive or lead to serious dislocations.

Prof. Arnold C. Harberger, staff member for the President's Materials Policy Commission, testified that an authorized immigration of even 400,000 a year could easily be absorbed without any lowering of our standard of living.

Dr. Harold G. Moulton, retired president of the Brookings Institution, published in 1949, a book entitled *Controlling Factors in Economic Development*, in which he reached the conclusion that so far as natural resources and productive capacity are concerned the United States could double its population within the next 100 years and that we could enjoy a standard of living eight times as high as that prevailing in 1949.

Of particular interest in the Commission's hearings was the unanimous view of the major religious faiths of America, Protestant, Jewish and Catholic, that the United States could safely absorb some 250,000 immigrants a year. These church groups had vigorously supported the now terminated displaced persons program, with its authorization of some 100,000 persons annually for 4 years over and above the regular immigration quota of 154,000. Some of these church groups testified that a 250,000 annual ceiling was a desirable one for permanent legislation. Others testified that at least for the next 3 years, if not permanently, an annual rate of 250,000 should be established by law.

For example, Dr. Walter W. Van Kirk, testifying in behalf of the National Council of Churches of Christ in the United States of America, recommended an annual admission rate of approximately 250,000 immigrants a year for the next 3 years, including regular immigrants and refugees of various categories. This view was specifically supported by Dr. Joseph M. Dawson, representing the Baptist World Alliance, Rev. Harold H. Henderson, representing the Presbyterian Church, U. S. A., and the Very Rev. Francis B. Sayre, Jr., dean of the Washington (Episcopal) Cathedral.

A similar view was expressed by Miss Cordelia Cox, of the National Lutheran Council:

> The experience in immigration under the Displaced Persons Act gives evidence that there is room in the United States . . . We admitted somewhat more than 250,000 in 1951, and so far we haven't felt any ill effects . . . what we are doing, have been doing up until 1951, was a mere trickle.

She went on to describe the situation in her own organization:

> . . . Comparatively these numbers were so small that they neither disturbed the balance of the labor market nor met the existing need for labor . . . In our national office and in our 36 area offices there are thousands of requests for farm and domestic workers. We can place any number of precision workers, engineers, doctors and nurses. The need for more workers is documented daily in agencies like ours which are known to be interested in immigration. These "sample" experiences of one agency indicate something of the possible total needs of the United States.

Monsignor Edward E. Swanstrom, Executive Director, War Relief Services, National Catholic Welfare Conference, testified that instead of the present law a figure of more than 300,000 per year would be reasonable:

> We might well establish an annual admission figure in ratio to our population; for example, 1 new immigrant to every 500 people in our country.

Various Jewish organizations advocated this same general figure as a minimum annual quota for permanent legislation.

The United States Commissioner of Labor Statistics indicated to the Commission that a net annual immigration of 250,000 persons would result in an increase in the labor force by 1955 of less than one-half of 1 percent. And this increase, it should be added, would be distributed throughout the entire area and among all the approximately 30,000 occupations of the United States.

The Commission recommends an annual immigration quota ceiling of 251,162, based on the 1950 Census, which on the evidence presented is fully within the capacity of the United States in the foreseeable future.

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National Origins System—Background

The immigration laws can limit the number of immigrants who may enter the United States each year, without reliance upon national origins as the method of selecting such immigrants. The total number and the method of selection within that number are two separate issues.

The quota or ceiling was introduced into our law in 1921. The concept of the national origins as a means of selection within a quota was introduced in the Immigration Act of 1924 which became effective on July 1, 1929. Each of these devices had its own unique objective.

The national origins system has been justified as an attempt to guarantee that particular ethnic, racial, or nationality groups would have preference for entry into the United States, on the assumption that they were more adaptable to American culture.

The avowed purpose of the national origins system, therefore, was a qualitative one. It was concerned with the kind of persons coming into the United States rather than with their number. The test it applied was not the individual worth of an immigrant, but rather the presumed superiority of people from certain areas of the world. Place of birth, not individual capacity or actual cultural background, was the test.

This concern with the caliber and quality of immigrants is naturally not new to our people. However, in most of our history qualitative selection was designed to keep out the obviously undesirable individual and not to distinguish between peoples or races.

There have been five historical stages in the development of our immigration policies.

COLONIAL PERIOD

In colonial times there were no national immigration policies, but only those of the individual colonies and of the mother country. These policies differed from colony to colony and accounted for major differences in regional development, as, for example, between the Northern States, which early encouraged free labor from Europe, and the South, where a plantation economy encouraged the importation of slaves rather than of free workers.

The general problem of the colonial period was that of peopling an empty land. The population of the colonies was small and the continent was a vast unexplored and unsettled domain. Yet, even in those early days the antagonists of new immigration asserted that there was no room for more immigrants, and that the new arrivals were introducing an alien element and philosophy into the established communities. What may be "new immigration" to some is "old immigration" to others. For example, of 56 signers of the Declaration of Independence, 8 were first-generation immigrants.

The earliest colonists were predominantly British, although the Dutch, Swedes, French Huguenots and some Spanish and Portuguese Jews were settled in certain areas. When the Scotch-Irish came shortly after 1714, they aroused considerable uneasiness. They were followed by a migration of Germans whose arrival was resented and feared by many.

During these early years arguments which seem strikingly familiar today were developed against immigration. There was a fear that the new immigrants' differences in speech, customs and antecedents would disturb the cultural unity of the American people. Many objected to the caliber of the immigrants, particularly to those who were paupers and criminals. Other opposition grew out of religious prejudices.

In general, however, immigration was encouraged during the colonial period, and some 750,000 people came to these shores from 1600 to 1770. The charters of Virginia (1609) and Massachusetts (1629) granted the right to "abide and live" not only to "our loving subjects" but to "any other strangers that will become our loving subjects." In the Declaration of Independence the colonists declared that one of their chief grievances was that the government of the mother country had hindered the free flow of people into the colonies.

The founding fathers continued the tradition of encouraging immigration. The Continental Congress, for example, invited the Hessian mercenaries of George III to leave his service and settle in the Americas. The Constitution states that Congress shall have the power to establish a uniform rule of naturalization, necessarily implying that newcomers would join the community.

In 1783 George Washington declared:

> The bosom of America is open to receive not only the opulent and respectable stranger but the oppressed and persecuted of all nations and religions; whom we shall wellcome to a participation of all our rights and privileges, if by decency and propriety of conduct they appear to merit the enjoyment.

The Federal Government used the principle of religious freedom to stimulate immigration as the guaranty of religious freedom in the Northwest Ordinance (1787) exemplifies. Alexander Hamilton, who was born in the British West Indies, wrote in his *Report of Manu-*

factures in 1792: "A perfect equality of religious privileges will probably cause them [immigrants] to flock from Europe to the United States." Tench Coxe, Assistant Secretary of State, in 1790, compiled notes for the "Information of the Immigrant" in which he listed all religious faiths in the United States and definitely offered assurance of religious liberty as an inducement for immigration.

EARLY 19TH CENTURY

The second stage of our immigration history occurred approximately from 1800 to 1875. Immigrants were still welcome and sought for, but concern was beginning to be expressed for the qualitative aspects of immigration. As early as 1819 legislation was passed to improve the condition of immigrants on vessels bound for the United States. Although the policy of the nation was to encourage and welcome newcomers, efforts were made to bar paupers, criminals, and others clearly undesirable.

The restrictionist sentiments of those who opposed free immigration were sharpened by the steady rise in the tide of immigration. This so-called "native American" movement was first crystallized in the Native American Party, launched about 1835. About 1850 this group became known as the Know-Nothings and in later years it emerged as the American Protective Association. With the expansion of this faction's support and influence there were recurrent manifestations of anti-alien feeling, some of which were accompanied by acts of violence against foreigners.

Yet an 1841 message from President Tyler to Congress stated: "We hold out to the peoples of other countries an invitation to come and settle among us as members of our rapidly growing family. . . ." The platform of the Republican Party (then called the Union Party) which Abraham Lincoln helped to write in 1864, stated: "Foreign immigration . . . should be fostered and encouraged by a liberal and just policy."

THROUGH WORLD WAR I

The third stage of immigration in America was in the period of 1875 to 1920. There was a sharp rise in the volume of immigration commencing in the 1880's, with immigrants coming from every country in Europe. This period saw the first general Federal immigration statute, which barred convicts, lunatics, and persons likely to become a public charge; the Chinese Exclusion Act, which virtually shut the gates of entry to Chinese; the Contract Labor Act, designed to end wholesale importation of cheap labor; and other acts providing for the exclusion and deportation of aliens.

In this period Congress set up the Immigration Commission of 1907. This Commission submitted a voluminous report in 1911 which discussed the desirability of limiting immigration and favored a literacy test as "the most feasible single method of restricting undesirable immigration." Bills prescribing a literacy test for immigrants were passed at various times by Congress, but were vetoed by Presidents Cleveland, Taft, and Wilson. A fourth bill was vetoed by President Wilson but his veto was overridden by Congress in enacting the Immigration Act of 1917. In addition to establishing the literacy requirement, the 1917 act codified and extended previous restrictions. In addition, it established a so-called Asiatic Barred Zone, which was intended to bar Orientals.

There were numerous other statutes which imposed supplementary restrictions on immigration. In general, all the legislation during this period concerned itself with improving the quality of individual immigrants and with shutting out Orientals.

SINCE WORLD WAR I

The fourth major stage of our immigration history was the period from 1920 to 1950. The United States had emerged from the First World War anxious to return to "normalcy." But now the United States, with some 106 million people, was "filled up," and the prevailing doctrine of the open door to European migration was challenged from several directions:

Politically, the nation was suffering a sharp revulsion against the war. Implicit in much of the thinking was the desire to forget the conflict and all it meant in terms of United States responsibilities in Europe and the world. The country turned its back on President Wilson, on the "internationalists" and on the League of Nations. It indulged in reaction against "foreign" influences. Fear of the Bolshevist menace resulted in various forms of legislative and administrative suppressions. There were strong undercurrents of racial and religious prejudices, most dangerously expressed in the Ku Klux Klan, which ultimately gained millions of members.

Ideologically, the more extreme rationale of this dramatic nationalist revival was the gospel of Nordic white supremacy. These views did not go unchallenged, but they had a marked influence on American attitudes toward immigration.

Economically, there were more immediate causes for concern in the situation after World War I. The country entered a prosperous period in late 1915, mainly as a result of the war in Europe. The economy hesitated briefly in the first few months after the Armistice, and then boomed in earnest. The labor market was very tight and

prices soared to a peak in mid-1920. Strikes became numerous as workers were affected by inflation. The collapse was swift. Wholesale prices dropped and manufacturing production fell. Unemployment mounted rapidly. Labor saw immigration as a potential threat to its standards of living.

Socially, the crowding of immigrants in the cities and the slums had created serious concerns about housing, health, crime, and assimilation, problems undoubtedly accentuated by the large number of immigrants in the prewar era.

Many bills prohibiting or restricting immigration were introduced in the House and the Senate of the United States Congress in the years from 1918 to 1921. Rumors were afloat that a flood of European immigrants, including many alleged undesirables, were getting ready to engulf the country. This reported prospective invasion was said to number millions. The sheer physical limitation of steamship facilities and of financial means, not to mention political and legal restrictions at home, seemed to play little part in reducing these rumors to a reasonable perspective of the actual conditions.

The House Committee on Immigration and Naturalization reported favorably, on December 6, 1920, a bill to prohibit all immigration, with very limited exemptions, for a period of 2 years.

Finally, out of all this came the 1921 act which limited the aliens of any nationality who might be admitted each year to 3 percent of that nationality resident in the United States in accordance with the 1910 census. This was the beginning of a legislative theory that people themselves were not as important as their ancestry. The 1921 act was intended as emergency legislation for 1 year but in due course was extended for 3 years.

In the meantime, discussions continued on proposals which ultimately became the Immigration Act of 1924. This act not only established a ceiling quota or a maximum of 150,000, subject to certain minimum quotas, but also established the basic present pattern of the national origins system. It sought to establish a rigid racial and nationality formula for immigration.

The curious part of this development was that the major controversy leading up to the national origins system was not on that system itself, but on the literacy test. As has already been stated, three Presidents vetoed this test for admission.

There is considerable mystery shrouding the development of the national origins plan. There was no extended debate in the Congress on it. It seemed to come in as an afterthought, without any major public discussion. Of the some 500 pages of the Congressional Record devoted to the debate on the Immigration Act of 1924, a total of approximately 14 pages were given over in both the House and the

Senate to the consideration of the national origins system. Only a small minority of the Senators and Congressmen participated in this discussion.

What started out as a debate on a literacy requirement developed into a move to end all immigration, became a temporary emergency measure, and ended up without much discussion as the national origins system.

PRESENT LAW

The fifth, and current stage, of American immigration dates from the discussions in 1950 culminating in the enactment of the Immigration and Nationality Act of 1952. The 1952 act retains essentially the national origins quota system which was introduced by the 1924 act. However, it does add some important racist provisions which, in fact, depart from the basic theory of the national origins system itself. The 1952 act requires the establishment of separate subquotas for colonial dependencies in the Western Hemisphere, a provision which has generally been regarded as discriminatory against the colored people of the Caribbean area. The 1952 act likewise defines a special geographic area known as the Asia-Pacific Triangle. The people of that area are given a special limited racial or Oriental quota, regardless of the place of their birth—a departure from the origins principle.

A DISCRIMINATORY LAW

The United States is the only major English-speaking country in the world which has written discrimination into its national immigration laws. Great Britain, Canada, Australia, and New Zealand, the other great English-speaking countries, all of them immigrant-receiving countries, have neither a national origins system nor an inflexible quota limitation.

The national origins system is also unique among the laws of English-speaking nations in the candor of its purpose. **The legislative history, the statements by its sponsors and the nature of its operation, all point to the fact that the 1924 national origins system was designed and intended to discriminate on the basis of national origin, race, color, and (in effect) religion.** It was designed to favor immigrants from Northern and Western Europe and to discriminate against those from Southern and Eastern Europe, and against Orientals.

Three groups were set up in the 1924 national origins law:

(1) the people of the Western Hemisphere who were granted nonquota status and permitted to enter the United States without regard to any numerical limitation; (2) Orientals, who were completely ex-

cluded; and (3) Europeans and others from the rest of the world, for whom some 154,000 quota numbers were allocated for distribution on the basis of place of birth.

Some deny the intent of the national origins system to discriminate against particular nationalities and races. Perhaps the best answer is the view held by the Senator who in 1924 proposed and succeeded in enacting the national origins system. Senator David A. Reed introduced the national origins system amendment on the floor of the Senate. His views are clearly stated in the following quotation from a colloquy occurring in hearings before the Senate committee in 1924:

> . . . I think most of us are reconciled to the idea of discrimination. I think the American people want us to discriminate; and I don't think discrimination in itself is unfair. . . . We have got to discriminate. The only question that I think worries the committee is whether the use of the 1890 census or the use of the method based on naturalization is the more plausible method of attaining that discrimination which is the object we are all seeking. . . . The question we are tackling is which is the more plausible, the more reasonable and the more defensible method of attaining that end. Practically all of us are agreed that that is an end that should be attained.

The Senate Judiciary Committee which conducted the study and submitted the bill which is now the Immigration and Nationality Act of 1952, specifically considered this same question. That committee rejected proposals seeking to ameliorate the discriminatory provisions of the national origins system, in the following terms:

> . . . It is obvious, therefore, that the plan would disrupt the national origins system, since the quotas for southern and eastern Europe have a higher percentage of usage than the quotas for northern and western Europe. To distribute the unused quotas on the basis of the registered demand would shift more quota numbers to the countries of southern and eastern Europe.

In its conclusions the committee states:

> Without giving credence to any theory of Nordic superiority, the subcommittee believes that the adoption of the national origins formula was a rational and logical method of numerically restricting immigration in such a manner as to best preserve the sociological and cultural balance in the population of the United States. There is no doubt that it favored the peoples of the countries of northern and western Europe over those of southern and eastern Europe, but the subcommittee holds that the peoples who had made the greatest contribution to the development of this country were fully justified in determining that the country was no longer a field for further colonization, and henceforth, further immigration would not only be restricted but directed to admit immigrants considered to be more readily assimilable because of the similarity of their cultural background to those of the principal components of our population.
>
> Many of the considerations which lay behind the passage of the national origins quota law have now become of little significance. The fact remains, however, that the national origins system has established a rigid formula for allocating the over-all number of quotas determined by Congress to be the maximum number to be admitted annually. Quotas thus established by law are definite and automatically resist the pressures of special groups. It is the rigidity of the formula,

however, which also causes much concern, since it eliminates the selection of the immigrants on the basis of their potential worth to the United States.

The 1952 act intentionally perpetuates the national origins system, principally to preserve what the committee stated was the "sociological and cultural balance in the population of the United States." This is merely a gentle way of saying that its purpose was to continue racial and national discrimination.

That racial and national discrimination is the essence of the Immigration and Nationality Act of 1952 is shown in several other ways. For the first time in American history a subquota is created for immigrants born in the colonies or dependent areas of the Western Hemisphere. This substantially reduces immigration of Negroes from the Caribbean area. For example, it shrinks immigration from Jamaica, from an average of 1,000 annually to a statutory maximum of 100 annually.

A second indication of the intentionally discriminatory character of the act of 1952 is the fact that although the law repeals the Japanese Exclusion Act and sets up a minimum quota for Japanese, it establishes a racial quota under which Orientals are to be charged to the "Asia-Pacific Triangle" on the basis not of place of birth—as is true in all other cases—but of their own racial background.

This is the national origins system. Until 1921 the United States followed its great tradition of regarding all peoples as being equal and of examining the intrinsic worth of immigrants in terms of their prospective individual contributions to the American scene. In 1921, in 1924, and even more emphatically in 1952, our immigration laws abandoned our traditional faith in the individual human being.

The National Origins System—Assumptions

There is a great deal of official documentation as to the assumptions and basic philosophies which motivated adoption of the national origins system by Congress in 1924. In particular, the Congress relied upon the findings of the Immigration Commission of 1907 which reported its conclusions in 1911, and upon a report, prepared by Dr. Harry Laughlin of the Carnegie Institution, for the House Committee on Immigration in 1922. These studies were conducted without public hearings, and it is clear that some of their conclusions ran counter to the evidence they themselves include.

In the Commission's hearings the people of America—the scientists, the scholars, the social workers, the clergy, leaders of business, labor and agriculture, and others—have for the first time had a substantial opportunity to present evidence and views on the validity of the national origins system. **The preponderant testimony is that the underlying assumptions of the system are wrong.** Scientific and other studies, and an enormous amount of additional research completed since the 1924 act was passed, corroborate this conclusion.

ASSUMPTIONS BEHIND THE NATIONAL ORIGINS SYSTEM

The fundamental assumption of the national origins system is that the place of birth of prospective immigrants is a reliable indication of their possible contribution to the United States and the likelihood of their becoming good citizens. To those holding this theory the so-called old immigrants from northern and western Europe are better than the so-called new immigrants from southern and eastern Europe.

There are three large areas of assumption behind the national origins system: (1) That there are inferior and superior races; (2) that immigration is harmful, particularly to the economic life of America; and (3) that the so-called "new" immigrants have inferior personal qualities.

The Theory of Superior Races

The Immigration Commission's report of 1911 sought to classify races in a pseudo-scientific manner as having group and defined characteristics. Its theory was that all races can be combined into two

clear-cut categories: The superior (those that were predominant in immigration prior to 1880), and the inferior (all others).

An interesting contrast between scientific viewpoints then and now is available. The whole argument behind the national origins system was given forceful expression by a former anthropologist of the American Museum of Natural History, Madison Grant, in a book published more than 35 years ago. He said:

> These new immigrants were no longer exclusively members of the Nordic race as were the earlier ones. . . . The new immigration . . . contained a large and increasing number of the weak, the broken, and the mentally crippled of all races drawn from the lowest stratum of the Mediterranean basin and the Balkans, together with hordes of the wretched, submerged populations of the Polish Ghettos. Our jails, insane asylums, and almshouses are filled with this human flotsam, and the whole tone of American life, social, moral, and political, has been lowered and vulgarized by them.

Compare this with the views of a present distinguished anthropologist of the same institution, Margaret Mead. In her testimony before the Commission she said:

> . . . all human beings from all groups of people have the same potentialities. . . . Our best anthropological evidence today suggests that the people of every group have about the same distribution of potentialities. When you add to that that it is on the whole the enterprising who immigrate and those who care more about freedom and are willing to risk their skins for freedom in many parts of eastern Europe, you realize that any such point of view is artificial and cuts off good ancestors for our great-great-grandchildren. We want that ancestry in good human stocks from wherever it comes in the world.

Another comparison of scientific evidence in 1924 and 1952 is also illuminating. In 1920 Dr. Harry Laughlin was asked by the House Immigration Committee to study the relation of biology to immigration, particularly as it bore on the problems of social degeneracy. His report, submitted in November 1922, includes the following comment:

> We in this country have been so imbued with the idea of democracy, or the equality of all men, that we have left out of consideration the matter of blood or natural inborn hereditary mental and moral differences. No man who breeds pedigreed plants and animals can afford to neglect this thing.

Congressman Albert Johnson, then chairman of the House Judiciary Committee, examined this report and stated:

> I have examined Doctor Laughlin's data and charts and find that they are both biologically and statistically thorough, and apparently sound.

However, the presently accepted scientific views appear in testimony before the Commission by Prof. Ralph L. Beals, Professor of Anthropology, University of California, and formerly president of the American Anthropological Association. He said:

All scientific evidence indicates that all peoples are inherently capable of acquiring or adapting to our civilization. Upon this point the American Anthropological Association has unanimously endorsed an official statement by its executive board. But peoples who have grown up in and been adapted to a quite different way of life, that is a different culture, to use anthropological language, may find it difficult as adults to adjust to new conditions. The degree of difficulty will vary according to the way of life in which people have developed. To put it in simple terms, because of their training and experience, some people may find it slightly easier to adapt to American civilization than do others, but this difference does not lie in any inherent qualities attaching to a particular group. . . .

He informed the Commission that there is no scientific verification for any belief in inherited difference in the ability of different peoples to be assimilated into the United States. He stated that there were individual differences in this regard, but "no demonstrable scientific differences in the group."

Other expert witnesses testified to the same conclusion. Prof. Alfred de Grazia, Executive Officer for the Committee for Research in Social Sciences at Stanford University, stated:

The fact is that the doctrines that were rather widespread about ethnic superiority and inferiority in the early twenties have been systematically refuted by every branch of science that concerns itself with those presumed inherent superiorities of different ethnic groups.

Now the surprising thing is that it is rather difficult to put one's finger on this literature because the fact is so well assumed by anyone of any competency in the field that we haven't bothered to build up a great literature dispelling those myths.

Prof. Philip M. Hauser, department of sociology, University of Chicago, and former acting director of the United States Bureau of the Census, testified of the 1952 act that:

. . . 3. It perpetuates a doctrine of racism based on unwarranted assumptions in respect to the differential quality and potentials of various ethnic and national groups. 4. It is blind to the historic example afforded by the experience of the United States of the capacity for any people to rise to positions of high social, economic, and political level when provided with the opportunity to do so. . . .

In attempting to support its distinctions between races and its belief that some races are inferior to others, the 1907 Immigration Commission looked to individual motives for immigration. First, it argued, the new immigrants came here only temporarily and not to stay permanently. However, it presented no evidence that the new immigrants were less likely to become citizens than the so-called old immigrants. On the contrary, its data proved only what the Displaced Persons Commission has since found, that the percentage of immigrants becoming citizens increased with the length of their residence in the United States. The participation of aliens in the

Armed Forces of the United States in three wars since the 1911 report is evidence enough of the invalidity of the report's conclusion.

The 1911 report also contended that the new immigrants came here for a less worthy reason than the old immigrants. There is no evidence in its report to justify this conclusion. The motives which have brought people to the United States have been much the same since the discovery of the New World: political and religious persecution in their homelands, economic opportunity and freedom's call in the New World. History shows that much the same motives and hopes brought the English and Scots in the seventeenth and eighteenth centuries; the Irish, Germans, Scandinavians, Orientals and French Canadians in the nineteenth century; the Italians, Jews and Poles in the early twentieth century; and the present refugees and escapees from communism and other forms of totalitarianism.

The impulse to emigrate which affected people may have arisen in different countries at different times. The same desire for freedom which motivated the German refugees of 1848, seems now to be inspiring the Iron Curtain refugees of 1952. All the reliable evidence refutes this conclusion of the 1911 report. Perhaps Theodore Roosevelt best described this situation when, in his *Autobiography*, he said that the term "settler" is a "euphemistic name for an immigrant who came over in the steerage of a sailing ship in the seventeenth century instead of the steerage of a steamer in the nineteenth century."

National policy should be formulated on the basis of accurate and reliable information. The best scientific evidence available today is that there is no evidence of any inborn differences of personality, character, intelligence, or cultural and social traits among races. **The basic racist assumption of the national origins system is scientifically invalid.**

The Theory of Economic Harm

The early arguments for national origins quotas relied heavily upon predictions of economic harm likely to develop from immigration. In Chapter 2, the Commission discusses the economic aspects of immigration. The evidence not only repudiates the theory of economic harm but actually shows that immigration is economically desirable and necessary for the United States.

In the arguments of 40 years ago, various reasons were adduced to support the 1911 report's conclusions:

(1) that a larger percentage of the new immigrants were unskilled labor. This was not substantiated in the report;

(2) that the new immigrants pushed the old immigrants out of the labor force by lowering the conditions of labor. This was not substantiated by evidence before the 1907 Commission. Perhaps the best proof of the continuing unsoundness of this reason is the present

attitude of organized labor in urging an increase in the number of immigrants to be permitted to come into the United States, and in recommending the abolition of the national origins system;

(3) that immigrants weakened labor unions. The history of organized labor in America proves that this was not true then or since;

(4) that immigration increased the number of industrial accidents. There was no objective evidence to support this reason;

(5) that the new immigrants created no new industries. This is clearly erroneous in the light of the contributions by immigrants to the development of the American economy;

(6) that immigration caused or aggravated unemployment during depression. The 1911 report contained no proof to support this reason. On the contrary, Chapter 2 of this report reviews evidence which indicates that there is no relationship between immigration and unemployment. Whatever may have been the situation caused by unrestricted immigration in 1911, immigration of the size contemplated by this Commission cannot be a factor in aggravating unemployment or depressions;

(7) that the new immigrants did not go into agriculture. To an extent this was true, but it was an incident of the industrialization of the United States and of the demand for services in commerce and industry rather than an indication of national and racial differences.

Generally speaking, the evidence before this Commission shows that a reasonably limited amount of immigration would have no adverse effect; and that, on the other hand, there would be considerable economic gains and advantages to be derived from such immigration.

The Theory of Inferior Personal Qualities

In this area several factors were constantly discussed by supporters of the national origins theory:

1. It was stated that illiteracy was greater among the new immigrants than among the old immigrants, and that this was due to inherent racial capacities.

All reliable evidence shows that illiteracy is more closely related to opportunity than to any other single factor. The literacy of persons admitted under the Displaced Persons Act showed a surprising degree of similarity to that of the American people as a whole. The theory of inherent racial tendencies to illiteracy is completely disproved by the 100 years experience of the American public school system which shows that there are no substantial differences in the capacity of different groups to be educated and Americanized.

2. It was alleged that there was more criminality among the foreign-born than among the native-born. This is not true. When the 1907 Commission turned to the only existing source of information, the Census Report on Prisoners, it discovered that immigration has

not increased the volume of crime to a distinguishable extent, if at all, that the percentage of immigrants among prisoners had actually fallen between 1890 and 1904, and that native Americans exhibited in general a tendency to commit more serious crimes than did the immigrant. Similar conclusions emerge from the studies of criminality during the past 25 years. As to total inclination to crime, President Hoover's National Commission on Law Observance and Enforcement (the so-called Wickersham Commission), found in 1931 that the foreign-born committed fewer crimes than the native-born in proportion to their respective numbers in the total population.

The best available scientific information indicates that criminality has no direct relationship to racial or ethnic affiliations.

3. The 1907 Commission's data and conclusions relating to the evidence of insanity showed that no objection could be made to the new immigrants on that ground.

In summary, it would appear that there was no reliable evidence that new immigrants were inferior to old immigrants in terms of personal qualities.

ASSIMILATION OF IMMIGRANTS

It is natural and proper to be concerned about the assimilability of new immigrants. **The preponderant weight of testimony before the Commission was to the effect that immigrants have made a satisfactory adjustment to the American scene.** Helen M. Harris testified on behalf of the National Federation of Settlements and Neighborhood Centers, a group of social institutions which has had first-hand experience for more than 65 years with immigrants from almost every country of the world. Miss Harris testified that her organization had found no essential difference in the capacity of different groups to assimilate.

The question of assimilability of new immigrants has arisen at every stage of our history. Even before our own Revolution, some people already here were complaining about the strange newcomers from Scotland and Germany. And of course, during the Revolutionary War, there was serious complaint against the more recent immigrants from England who were loyal to that country. Before the Civil War, there were fears that Irish and Germans would never be assimilated. These complaints were similar to those before World War I, that the Southern and Eastern Europeans could not be assimilated. Each new group or category of immigrants evoked fear that they could not assimilate, but nonetheless, with the passage of time each of the various succeeding groups became full participating members of the American community.

Distinguished witnesses who testified before the Commission made this point on various occasions. Dr. Carl Wittke, Dean of the Graduate School of Western Reserve University, Cleveland, Ohio, who is an eminent historian on American immigration, testified as follows:

> Now the other point I want to make . . . is that many of the things that were said in later years in criticism of the Italian, the Pole, the Czech and so on, on the ground that they were an unassimilable group and represented a very foreign custom and ideology, they were all said a hundred years ago about these so-called representatives of the older immigration group.
>
> Let me again pick the Irishmen, by way of example, because I think of no immigrants who more quickly became a 100 percent or 300 percent American than the Irishmen, but in the 1850's and 1860's, if you read the newspaper comments and all the literature, you will find that the Irish immigration which came in such terrific volume alarmed the old-time Americans; the Irishman spoke a peculiar brogue, and he had a peculiar dress. He was forced to live in the slum tenements, in the garrets and in the cellars, and the Irish shanty towns developed in all our big cities. He was charged with being intemperate and loving liquor too much, or being a kind of boisterous, riotous person. He was depressing the labor standards of the average American . . .
>
> A lot of the Americans said here we have an unassimilable group here in America, more interested in the homeland, in its foreign church, and so on, than it is in becoming good Americans.
>
> I select that simply to indicate that within a short time these Irishmen who came out of the garrets and the cellars and the slums rose up in the scale socially, economically, politically, to become as enthusiastic and patriotic Americans as any native Yankee who had come over on the Mayflower. The whole political situation was introduced a hundred years ago, much as you have heard it introduced today . . .
>
> My whole point in saying these things is to emphasize the fact that if you take the broad historical point of view, I have heard nothing said by way of criticism of more recent immigrants that cannot be duplicated from the record as to what has been said about the older immigrants of more than a century ago, but who in due course and with a proper American attitude toward them became quickly assimilated and represented an excellent economic and social contribution to this developing American.

The national origins system is based on false assumptions, unsubstantiated by physical science, history, sociology, economics, or anthropology. The Commission found substantial evidence to corroborate the Senate Judiciary Committee statement that many of the considerations which lay behind the passage of the national origins quota law have now become of little significance. **The Commission recommends, therefore, that since the basis of the national origins system is gone, the system itself should go.**

The National Origins System—Operation

The national origins system has been in effect for more than 23 years and some of its results are clearly discernible. It achieved its restrictive purpose of drastically cutting total immigration from quota countries. In particular, it discriminated against people from Southern and Eastern Europe and from Asia. It failed in its positive purpose of channeling immigration in accordance with a statistical pattern. Actual immigration from 1930 to 1952 bears little resemblance to the ethnic and racial ratios incorporated in the national origins quota system.

THE QUOTAS

The individual country quotas under the national-origins system are shown in table 5. The quotas under the 1924 and 1952 acts differ in only two regards: (1) The assignment of minimum quotas to certain Asian and African countries, and (2) a slight pro rata reduction of all quotas (other than the minimum) as result of a slight change in the method of computation. The principles and net effect of the national origins system are retained in the 1952 act.

Table 5.—*Annual Immigration Quotas Under the 1924 Act and the Immigration and Nationality Act of 1952*

Area No.	Quota country or area	1924 act quota [1]	1952 act quota	Loss	Gain
1	Afghanistan	100	100	------	------
2	Albania	100	100	------	------
3	Andorra	100	100	------	------
4	Arabian Peninsula	100	100	------	------
5	Asia-Pacific Triangle	--------	100	------	100
6	Australia	100	100	------	------
7	Austria	1, 413	1, 405	8	------
8	Belgium	1, 304	1, 297	7	------
9	Bhutan	100	100	------	------
10	Bulgaria	100	100	------	------
11	Burma	--------	100	------	100
12	Cambodia	--------	100	------	100
13	Cameroons (trust territory, United Kingdom)	100	100	------	------
14	Cameroun (trust territory, France)	100	100	------	------
15	Ceylon	--------	100	------	100
16	China	100	100	------	------

See footnote at end of table.

Table 5.—*Annual Immigration Quotas Under the 1924 Act and the Immigration and Nationality Act of 1952*—Continued

Area No.	Quota country or area	1924 act quota [1]	1952 act quota	Loss	Gain
17	Chinese (racial)	105	105	------	------
18	Czechoslovakia	2, 874	2, 859	15	------
19	Danzig, Free City of	100	100	------	------
20	Denmark	1, 181	1, 175	6	------
21	Egypt	100	100	------	------
22	Estonia	116	115	1	------
23	Ethiopia	100	100	------	------
24	Finland	569	566	3	------
25	France	3, 086	3, 069	17	------
26	Germany	25, 957	25, 814	143	------
27	Great Britain and Northern Ireland	65, 721	65, 361	360	------
28	Greece	310	308	2	------
29	Hungary	869	865	4	------
30	Iceland	100	100	------	------
31	India	100	100	------	------
32	Indonesia	--------	100	------	100
33	Iran (Persia)	100	100	------	------
34	Iraq	100	100	------	------
35	Ireland (Eire)	17, 853	17, 756	97	------
36	Israel	100	100	------	------
37	Italy	5, 677	5, 645	32	------
38	Japan (racial and nonracial)	100	185	------	85
39	Jordan	100	100	------	------
40	Korea	--------	100	------	100
41	Laos	--------	100	------	100
42	Latvia	236	235	1	------
43	Lebanon	100	100	------	------
44	Liberia	100	100	------	------
45	Libya	--------	100	------	100
46	Liechtenstein	100	100	------	------
47	Lithuania	386	384	2	------
48	Luxemburg	100	100	------	------
49	Monaco	100	100	------	------
50	Morocco	100	100	------	------
51	Muscat (Oman)	100	100	------	------
52	Nauru (trust territory, Australia)	100	100	------	------
53	Nepal	100	100	------	------
54	Netherlands	3, 153	3, 136	17	------
55	New Guinea (trust territory, Australia)	100	100	------	------
56	New Zealand	100	100	------	------
57	Norway	2, 377	2, 364	13	------
58	Pacific Islands (trust territory, United States)	--------	100	------	100
59	Pakistan	--------	100	------	100
60	Palestine (Arab Palestine)	100	100	------	------
61	Philippines	100	100	------	------
62	Poland	6, 524	6, 488	36	------
63	Portugal	440	438	2	------
64	Ruanda-Urundi (trust territory, Belgium)	100	100	------	------
65	Rumania	291	289	2	------
66	Samoa, Western (trust territory, New Zealand)	100	100	------	------
67	San Marino	100	100	------	------
68	Saudi Arabia	100	100	------	------
69	Somaliland (trust territory, Italy)	--------	100	------	100
70	South-West Africa (mandate)	100	100	------	------
71	Spain	252	250	2	------

See footnote at end of table.

Table 5.—*Annual Immigration Quotas Under the 1924 Act and the Immigration and Nationality Act of 1952*—Continued

Area No.	Quota country or area	1924 act quota [1]	1952 act quota	Loss	Gain
72	Sweden	3, 314	3, 295	19	------
73	Switzerland	1, 707	1, 698	9	------
74	Syria	100	100	------	------
75	Tanganyika (trust territory, United Kingdom)	100	100	------	------
76	Thailand (Siam)	100	100	------	------
77	Togo (trust territory, France)	100	100	------	------
78	Togoland (trust territory, United Kingdom)	100	100	------	------
79	Trieste, Free Territory of	100	100	------	------
80	Turkey	226	225	1	------
81	Union of South Africa	100	100	------	------
82	Union of Soviet Socialist Republics	2, 798	2, 697	101	------
83	Vietnam	--------	100	------	100
------	Yap and other Pacific islands	100	--------	100	------
84	Yemen	--------	100	------	100
85	Yugoslavia	938	933	5	------
	Total	154, 277	154, 657	1, 005	1, 385
	Net Gain		380	------	------

[1] Quotas as of 1952, based on 1929 national origins system with subsequent additions for China, India Trieste, etc.

That the quota system discriminates against Southern and Eastern European countries is evidenced by the fact that 81.6 percent of the quotas are allocated to the Northern and Western European countries while only 16 percent are allocated to Southern and Eastern European countries.

RESULTS OF THE NATIONAL ORIGINS SYSTEM

It Reduced Immigration From Southern and Eastern Europe

From 1900 to 1919, immigration from Northern and Western Europe averaged some 145,000 persons annually, and from Southern and Eastern Europe some 488,000. The 1921 and 1924 acts cut back particularly the quota immigration from Southern and Eastern Europe; after 1929, quota immigration from this area became a mere trickle compared to the flow immediately after the turn of the century.

The following table shows what happened:

Table 6.—*Immigrants Admitted (by Area): 1900–1951*

Period (Years ended June 30)	Northern and Western Europe		Southern and Eastern Europe	
	Yearly average	Index (1900–1909=100)	Yearly average	Index (1900–1909=100)
1900–09	181, 156	100	582, 287	100
1910–19	111, 264	61	394, 392	68
1920–29	127, 390	70	130, 281	22
1930–39	25, 815	14	18, 712	3
1940–49	37, 270	21	10, 035	2
1950	75, 909	42	135, 603	23
1951	51, 481	28	114, 600	20

The rise of immigration from Southern and Eastern Europe in 1950–1951 reflects the operation of the displaced persons program. Through mortgaging of future quotas, the Displaced Persons Act permitted immigrants, chargeable to small quotas, to enter without regard to quota availability in any given year.

It Reduced the Immigration of Asiatics

The official statistics also show a sharp cutback in the immigration of people of Asiatic origin after the national origins law went into effect in 1929:

Table 7.—*Reductions in Immigration of Asiatics*[1]: *1900–1951*

Year ended June 30—	Chinese	Indians	Japanese	Korean
1900–09	19, 182	3, 989	142, 536	7, 749
1910–19	18, 885	3, 184	77, 257	996
1920–29	25, 523	1, 286	40, 482	643
1930–39	2, 687	179	2, 367	85
1930	970	51	796	27
1931	748	65	626	21
1932	545	50	503	19
1933	44	1	60	2
1940–49	7, 764	153	904	86
1947	1, 128	36	9	1
1948	3, 574	42	316	36
1949	2, 490	55	492	39
1950	1, 289	70	45	6
1951	1, 083	74	206	24

[1] Quota and nonquota.

Unused Quotas

The 1924 act established national quotas for immigration. The total authorized quota ceilings for the 28-year period since then, fiscal years 1925–52, is 4,362,354 quota numbers. Of this, a total of only 1,923,509 was used. In other words, since the 1924 act, 56 percent of the available quotas was not used.

Or, to summarize:

	Fiscal years 1925–52	Percentages
Total quota numbers available	4, 362, 354	100
Total quota numbers actually allotted for use	1, 923, 509	44
Total quota numbers unused	2, 438, 845	56

A picture of what happened to quotas in the two most recent years may be illuminating:

	Fiscal year 1951	Fiscal year 1952
Total quota numbers available	154, 285	154, 277
Total quota numbers actually allotted for use	[1] 76, 730	[2] 92, 181
Total quota numbers unused	77, 755	62, 096

[1] Includes 9,579 numbers alloted to displaced persons under Displaced Persons Act, as amended.
[2] Includes 16,021 numbers allotted to displaced persons under Displaced Persons Act, as amended.

Waiting Lists

Despite large quantities of unused quota numbers assigned to some countries, there are lengthy waiting lists of people in other countries who were not able to obtain quota numbers because their country's quota was oversubscribed.

The following are the five largest quotas:

Great Britain and Northern Ireland	65, 721
Germany	25, 957
Ireland	17, 853
Poland	6. 524
Italy	5, 677

Only the British and Irish (Eire) quotas are "undersubscribed" or open; the other three are "oversubscribed", or closed, in varying degree. Thus, as of August 26, 1952, only those applicants registered under the German quota prior to July 1, 1952, could have expected quota numbers for the quarter October 1 through December 31, 1952. So far as Polish quota applicants were concerned, only those registered prior to October 1, 1948, could be allotted quota numbers for that quarter. Registrants under the Italian quota who were in non-

preference categories and who registered prior to January 1, 1950, were eligible to receive numbers for that quarter, provided as always, that preference demands did not intervene.

The State Department has provided the Commission with the following list of oversubscribed quotas and the total registration thereunder as reported by consular offices on August 1, 1952. There is also listed the year through which quotas were "mortgaged" under the Displaced Persons Act, as amended.

Table 8.—*Waiting Lists for Quota Numbers*

Country	Present annual quota	Total registration	Year to which quota mortgaged
Albania	100	2, 265	1956
Australia	100	2, 836	----------
Austria	1, 413	27, 163	1955
Bulgaria	100	1, 665	1964
China (White)	100	1, 421	1964
Chinese Racial	105	2, 495	1964
Czechoslovakia	2, 874	34, 515	1958
Danzig	100	4, 842	1961
Denmark	1, 181	3, 755	----------
Egypt	100	3, 400	----------
Estonia	116	3, 908	2146
Finland	569	3, 119	----------
France	3, 086	4, 716	----------
Germany	25, 957	262, 598	----------
Greece	310	24, 227	2014
Hungary	869	20, 697	1989
India	100	----------	----------
In India	----------	6, 320	----------
Outside India	----------	1, 501	----------
Iran	100	4, 730	1956
Iraq	100	7, 008	----------
Israel	100	4, 050	1954
Italy	5, 677	32, 107	----------
Latvia	236	9, 104	2274
Lebanon	100	2, 895	----------
Lithuania	386	11, 946	2090
Netherlands	3, 153	42, 265	----------
New Zealand	100	710	----------
Norway	2, 377	16, 381	----------
Palestine	100	4, 394	----------
Philippines	100	4, 217	1954
Poland	6, 524	166, 244	2000
Portugal	440	14, 871	----------
Rumania	291	23, 807	2019
Spain	252	6, 208	1956
Syria	100	2, 113	----------
Trieste	100	623	1958
Turkey	226	8, 874	1964
U. of S. Africa	100	697	----------
U. S. S. R.	2, 798	46, 292	1980
Yugoslavia	938	56, 068	2014
		877, 047	

Reduction of Quotas Through Special Provisions

Quotas under the law are reduced by virtue of the effect of certain provisions of general or special laws, thereby further limiting the number who may immigrate to the United States. These reductions of the total quota came about:

By Suspension of Deportation.—The general immigration law authorizes under certain circumstances the suspension of deportation of persons already in the United States. In each case, the quota of that person's country of origin is reduced by one.

By Special Acts.—Congress passes private bills for particular individuals. In each such case, the quota is reduced by one.

By Section 4 of the Displaced Persons Act, as amended.—A special section of the Displaced Persons Act permits certain aliens already in the United States to convert their status to that of permanent resident. In each such case, the appropriate quota is reduced by one.

The total of all quotas affected by changes of status is indicated by the following figures which show quota charges through the second session, Eighty-second Congress:

Table 9.—*Quota Charges for Adjustment of Status*

Quota year	Charges as percent of total quota	Total charges	Special act	Suspension of deportation	D. P. Act special
1945	n. a.	n. a.	n. a.	5, 429	----------
1946	n. a.	n. a.	n. a.	3, 273	----------
1947	2. 0	3, 007	26	2, 981	----------
1948	1. 1	1, 679	27	1, 652	----------
1949	1. 0	1, 475	83	1, 392	----------
1950	. 6	966	133	833	----------
1951	1. 2	1, 795	289	1, 506	----------
1952	1. 3	1, 975	192	1, 780	3
1953	1. 0	1, 622	233	1, 360	29
Future years	----------	3, 316	92	1, 781	1, 443

n. a.: Not available.

FAILURE OF THE NATIONAL ORIGINS SYSTEM

Racial and National Pattern of Immigration

The purpose of the national origins system is the selection and admission of immigrants in accordance with a basic racial and nationality ratio. In this regard, the national origins system has failed.

For the period July 1, 1929–June 30, 1951, during which the national origins system actually has been in effect, a total of 2,010,887 immi-

grants were admitted to the United States, or an average of 91,404 per year. The quota immigrants averaged 54,095 per year, and the annual average for nonquota immigrants was 37,309.

Considering only the quota countries, the distribution of actual immigration (quota and nonquota) varies considerably from that of the quotas themselves. The quota pattern did not prevail. Under the quota allocation, 81.6 percent were to come from Northern and Western Europe. Actually only 55.8 percent of the quota immigrants came from this area.

Under the quota allocation, only 16.0 percent were to come from Southern and Eastern Europe. In fact, of all quota immigration in the 22-year period, 1930–51, some 42.4 percent came from Southern and Eastern Europe.

The following table shows the picture of the failure of the national origins to accomplish its fundamental avowed purpose.

Table 10.—*United States Immigration: 1930–51, by Regional Origins*

Regional origin	Quotas under 1924 act	Total immigration	Quota immigration
	Percent	*Percent*	*Percent*
Total [1]	100. 0	100. 0	100. 0
Northern and Western Europe	81. 6	38. 7	55. 8
Southern and Eastern Europe	16. 0	34. 2	42. 4
Asia	1. 2	1. 7	1. 1
Africa	. 8	. 2	. 3
Pacific	. 5	1. 0	. 4
Non Quota (Western Hemisphere)	----------	24. 0	----------

[1] Percentages may not add to 100.0 due to roundings.

Mrs. Helen F. Eckerson, Chief of the Statistical Branch of the Immigration and Naturalization Service, wrote in the Immigration and Naturalization Service *Monthly Review* for October 1945:

> The pattern set by the admission of immigrants during the period 1930 to 1944 did not at all resemble the national origins plan set up by the Congress.

Although the national origins system did not establish a prefixed flow of immigration, the limitation on numbers did maintain a "racial *status quo*" in the United States, both in terms of nationality and racial characteristics.

In terms of nationality "origin," the following table, from data provided by the Bureau of the Census, shows that the *status quo* was maintained:

Table 11.—*White Population of the United States, by "Origin": 1920 and 1940*

Nationality "Origin"	1920	1940	20-year difference
	Percent	*Percent*	*Percent*
Total [1]	100. 0	100. 0	
Northern and Western Europe	79. 1	77. 9	−1. 2
Southern and Eastern Europe	15. 1	15. 9	. 8
Western Hemisphere	5. 6	5. 9	. 3
Other	. 3	. 3	----------

[1] Percentages may not add to 100.0 due to roundings.

The maintenance of the general *status quo* is shown in the following table on the three major racial groups:

Table 12.—*Population of the United States, by Race: 1920 and 1950*

Race	1920		1950	
	Number (in thousands)	Percent	Number (in thousands)	Percent
Total [1]	105, 711	100. 0	150, 697	100. 0
White	94, 821	89. 7	134, 942	89. 5
Negro	10, 463	9. 9	15, 043	10. 0
American Indians	244	. 2	343	. 2
Other nonwhites including Orientals	182	. 2	370	. 2

[1] Percentages may not add to 100.0 due to roundings.

Thus, what succeeded in maintaining a "racial *status quo*" was not the arbitrary and unsuccessful national origins formula, but the reduction in the total amount of immigration. This was done by the quota ceiling which kept immigration so low that the resulting increment to our population could have no significant effect on the national origins and racial composition of a country of our size.

Congressional Recognition of Failure

The inflexibility of the national origins system brought about its failure in another respect. This rigidity prevented the accomplishment of certain desired national objectives and required the Congress to bypass the national origins system on many occasions through special immigration legislation. Among such legislative bypassing of the national origins system are the following:

War Fiancées.—Ancillary to the war brides program, legislation

was enacted to permit the temporary entry of fiancées, in order that they might marry veterans who were citizens of the United States. Upon the performance of the marriage they were permitted to remain in the United States permanently. By June 30, 1950, a total of 8,538 aliens were admitted under this legislation, without regard to the established quotas.

Displaced Persons.—As a result of special legislation enacted in 1948 and in 1950, the Congress authorized the entry of certain designated displaced persons and other refugees without regard to the current availability of quotas, and subject to charges made against future annual quotas. Some 393,542 persons were admitted under this program by June 30, 1952.

Skilled Sheepherders.—Congress made special provision for the admission of skilled sheepherders, by special quota arrangements, as noted in Chapter 2.

Intelligence Operatives.—Under legislation enacted in 1949, entry is authorized each year, outside of the established quotas, under certain conditions for 100 aliens (and members of their immediate families) who are certified as useful in executing the intelligence mission of the Central Intelligence Agency.

Overseas Enlistees.—Special legislation sanctions the admission into the United States, outside of the established quotas under specified conditions, of certain aliens who enlist in the Armed Forces of the United States in foreign countries. The 1950 enactment fixed the limit of such admissions at 2,500, and this ceiling was increased in 1951 to 12,500.

Private Bills.—In recent years there has been a growing disposition on the part of Congress to enact private relief legislation exempting designated individuals from the requirements of the immigration laws. When granted, such relief is without regard to current availability of quotas.

Eliminating the duplications resulting from introduction of the same bill in both houses of Congress, 2,465 private bills were introduced in the Eighty-first Congress for the relief of 4,145 persons. Of these bills, 505 were enacted for the benefit of 835 persons. Five bills were vetoed by the President, three of which were subsequently reintroduced and reenacted. In the last Congress, the Eighty-second, 3,302 bills were introduced for the relief of 5,784 persons, of which 732 bills were enacted affecting 1,364 persons. Two bills which were vetoed were subsequently reintroduced and reenacted.

CONCLUSIONS

The national origins system failed in its avowed purpose because it was arbitrary and did not conform to the facts. Immigrants do

not come to the United States in the proportions set up by the national origins formula, and therefore it could not succeed in its purpose.

The failure grows out of several factors, including the following:

1. The favored quota countries did not send immigrants in proportion to their quota ratio.

2. The national origins system did not apply to nonquota immigration, which was substantial. This included people from the Western Hemisphere and the families of citizens of any national origin. During the 22 fiscal year period from 1930–51, immigration totaled 2,010,887. Of this total more than 40 percent, or 820,795 persons, was nonquota.

3. Congressional recognition of the necessity for ignoring the national origins system through special legislation, such as the displaced persons and the war fiancée programs, and private bills, which together admitted almost half a million people since the war.

The National Origins System—Suggestions to the Commission

In discussions of the national origins quota system over a period of years, many alternatives have been proposed. Following are some of the suggestions made to the Commission as to possible courses of action:

PROPOSALS CONCERNING A TOTAL ANNUAL QUOTA

To Stop All Further Immigration to the United States

Such proposals have been advanced from time to time without success during our national history. In fact, the 1921 act developed from just such a proposal. Some few urged this extreme measure during the Commission's hearings.

To Abandon Any Numerical Limitations

This is the pattern of free immigration, subject to qualitative limitations, which prevailed in the United States before 1921. No one has seriously urged this position upon the Commission.

To Abandon Numerical Limitations but To Require Assurance of Financial Responsibility

While this plan would not proclaim specific maximum limitations, its sponsors argue that it would, in effect, operate as a self-limiting guarantee against excessive immigration. The qualitative restrictions in the present law would in substance be retained. In addition, each prospective immigrant would have to furnish firm and legally enforceable assurance that he would not become a burden on the community. This is a plan for qualified immigration similar to that in effect in some other countries.

To Allow Free Movement of Peoples in Designated Areas of Free Trade

This proposal has been advanced by *Fortune* magazine and envisages specific identification of the immigration policy of the United States with revised economic and foreign policies.

To Adopt Flexible Annual Quotas Based on National Need and Capacity

The advocates of this plan argue that the present immutable annual maximum number that may be admitted makes no allowance for national needs and changing world conditions. They point out that the quotas have remained fixed despite alterations in the requirements of the United States and of the world situation. They favor periodic revisions in the immigration quota maximum based on an evaluation of current needs and the national capacity to absorb immigrants.

This proposal could be combined with any formula for allocating visas within the annual numerical limitations, either the national origins system or any substitute plans. Some have suggested that an administrative agency be given authority, under standards established by Congress, to determine the number of immigrants who would be received in the United States each year within a designated range.

Proponents say that flexible authority to determine the number of immigrants to be admitted annually is conferred upon administrative agencies in other countries.

PROPOSALS TO RETAIN NATIONAL ORIGINS SYSTEM

To Retain the National Origins System Without Change

This course of action was followed by the Immigration and Nationality Act of 1952, and approved by some witnesses at the hearings.

To Retain the National Origins System but Make Adjustments and Revisions in Its Operations

Among those who urge this course are persons who support the national origins system in principle but admit that some modifications in the current statutory design are desirable; and also persons who oppose the national origins system in principle but who have not devised any workable substitute pattern or who believe that legislative strategy dictates interim measures.

A number of revisions have been suggested:

Pooling of Unused Quotas.—This plan has had strong support. It is predicated on the recognition that high proportions of certain quota allotments have not been utilized, particularly by Great Britain and Ireland. It proposes to assign such unused quotas to other countries. The supporters of this plan argue that it merely makes possible the full utilization of the quota numbers authorized by Congress, which have to a large extent been wasted in the past. The opponents contend on the other hand that Congress did not guarantee that the quotas would be fully used, but rather established a maximum authorization.

They also assert that any pooling plan would unbalance the national origins pattern.

A major problem is the determination as to how to apportion such unused quotas. Some would allocate the unused quota numbers solely on the basis of precedence in applications, or in proportion to registered demand for quota members. These suggestions have aroused the objection that the entire pool would, in effect, be appropriated by nationality groups with high demand for immigration. Another proposed plan would reserve such unused quotas for countries with low quota allotments, and assign them in proportion to the original quotas. Another plan would assign the unused quotas to regional areas, the unused European quotas to Europeans and the unused Asian quotas to Asiatics. Still another plan would apply the unused quotas to designated groups of immigrants selected on the basis of preferences such as our national needs, family ties, and personal hardship of applicants.

Adjustment of the Basis of Computation.—Many have suggested substituting the current census for that of 1920 as a basis for determining national origins quotas. Such modification would increase the total quota and make possible the admission of a somewhat larger number of immigrants from Southern and Eastern Europe where needs are great and quotas small.

Another suggestion is to include Negroes, Indians, and other nonwhite persons in the population base on which the percentage is computed in order to arrive at the total quota. Under the present law, Negroes and American Indians have been excluded from the population base. Were they to be included, this modification alone would result in an increase in the quotas under the act of 1952 (based on the 1920 Census) from approximately 155,000 to approximately 171,000.

If both these suggestions were adopted, the aggregate quotas on the 1940 census basis would approximate 230,000, and on a 1950 basis aggregate quotas would become 251,162.

Eliminate Special Racial Quotas for Asiatics and Also Special Quotas for Colonies in the Western Hemisphere.—It is alleged that these limitations constitute a survival of racial discrimination and are unnecessary in achieving limitation of immigration. The proponents of such special racial quotas urge, however, that they must be retained in order to preclude excessive immigration of Asiatics from Western Hemisphere countries. Moreover, they contend that the inhabitants of dependencies should not be permitted to utilize the quotas of the mother countries.

Rescind the Mortgaging of Quotas Inaugurated Under the Displaced Persons Act.—Such mortgaging commitments are claimed to be an

unwarranted burden on the future. In its final report, *The DP Story*, the Displaced Persons Commission made this recommendation. Many witnesses at the hearings urged it strongly.

Eliminate Reductions in Quotas Through Private Bills, Suspension of Deportation, and Adjustment of Status.—It is argued that by granting relief in such cases Congress recognizes that they present special meritorious circumstances and that such action should entitle the alien to admission outside the quotas.

Assign Future Quotas on the Basis of the Proportionate Use of Quotas During Any Specified Period.—Such a plan would gear future quotas to the proportions of past immigration.

Assign National Quotas on Basis of National Origin Percentage in Military Service of the United States Rather Than on Percentage of Total Population.—This suggestion is intended to reward services rendered to the people of the United States.

To Retain the National Origins System, but Substitute Regional Quotas for the Present National Quotas

Under this proposal the quotas for all European countries would be pooled into a single quota for Europe. Likewise, the quotas for the countries of the Asiatic area could be pooled in a single quota for Asia. This plan bears some resemblance to the Asia-Pacific triangle device introduced by the act of 1952. It would afford greater flexibility in utilizing the quotas for Europe. The supporters of the national origins principle would probably object to the failure to reserve the major portion of the suggested European quota for the countries of northern and western Europe. On the other hand, many of the opponents of the national origins system would probably argue that this new device would merely continue racial discriminations under another guise. However, this suggestion would accomplish a pooling of presently unused quotas.

To Retain the National Origins System in Principle, but Bypass It in Practice Through Emergency Legislation to Admit Additional Persons on a Nonquota or Quota Mortgaging Basis

The Displaced Persons Act was an example of such an approach; quota mortgaging was used to evade the restrictions of the national origins systems. Senator McCarran's special sheepherder law, the War-Fiancées Act, Congressman Walter's bill for specialists, and President Truman's emergency proposal for 300,000 refugees and others during a 3-year period (as embodied in the bills of Senator Hendrickson and Congressman Celler) are additional examples.

Some oppose this proposal who may agree with the objectives of a specific program so advanced, but argue that the way to deal with

such recurrent emergencies is through enactment of a sufficiently flexible basic immigration law rather than through "crisis legislation." Others in opposition object to the specific program.

PROPOSALS TO ABOLISH NATIONAL ORIGINS SYSTEM

To Repeal the National Origins Formula, and Substitute a Flexible Allocation Within a Maximum Quota Established by Law

This proposal would establish a maximum annual quota, and would authorize the selection of immigrants within that total quota without regard to their nationality, race, color, or religion.

Several different proposals have been advanced for selection within this single quota maximum.

(*a*) Some urge a "first come, first served" basis.

(*b*) Others suggest a system of preferences for the selection of immigrants within the maximum quota. Various criteria have been suggested for such preferences. The following are some preferences that have been suggested to the Commission:

1. Relatives of American citizens and of alien residents of the United States;
2. Persons with special skills;
3. Refugees, escapees, expellees;
4. Immigrants from overpopulated areas;
5. Persons left in the displaced persons "pipeline";
6. Immigrants to satisfy needs in the United States.

Opponents of this plan claim that it would virtually preempt the entire quota for particular nationality groups. The proponents argue that this is the only formula that is morally defensible and completely fair. Furthermore, the proponents argue, a proper system of preferences would prevent undue favoritism to any one nationality, and flexibility would permit adjustment to meet the domestic and foreign policy needs of the United States.

A Unified Quota System—The Commission's Recommendation

The Commission recommends the complete abolition of the national origins system.

In its place, the Commission recommends a unified quota system.

The Commission's recommendation contemplates a maximum annual number of quota immigrants, to be determined by the Congress, and a flexible method of allocating visas within such annual maximum. Visas should be allocated on the basis of statutory categories best serving the interests of the United States, and without regard to national origin, race, color, or creed. This allocation should be made periodically by an administrative agency, established for that and other purposes, and would be subject to review by the President and the Congress.

The National Council of Churches of Christ testified before the Commission that the national origins system is "an affront to the conscience of the American people." The Archbishop of the Catholic Archdiocese of Boston stated to the Commission: "The theory of national origins cannot be defended without recourse to the discredited and un-Christian tenets of racism." The Synagogue Council of America testified that the national origins system "flies arrogantly in the face of everything we know and have learned, and stands as a gratuitous affront to the peoples of many regions of the world."

These representatives of the major religious faiths throughout the United States were joined by spokesmen from all walks of life in this country, the sciences, the arts, the professions, education, agriculture, business, labor, law, and social service, as well as by civic leaders and individual citizens.

The Commission believes that its recommendation to abolish the national origins system accords with the convictions of the majority of informed people in the United States.

The principal characteristic of the unified quota system is that it selects prospective immigrants without regard to national origin, race, color, or creed. In this regard it is in line with the attitude expressed by George Washington in 1784. Writing to a former aide-de-camp, Washington asked assistance in getting several immigrants for his plantation, and gave the following qualifications:

> If they are good workmen, they may be of Asia, Africa, or Europe. They may be Mohammetans, Jews, or Christians of any sect, . . .

NUMERICAL LIMITATION ON QUOTA IMMIGRANTS

The Commission recommends a ceiling on quota immigration into the United States, based upon the formula figure used in the Immigration and Nationality Act of 1952, namely, one-sixth of 1 percent of the population of the United States. However, the population base should be the latest available census figures and should include all persons in the United States, without regard to national origin, race, color, or creed.

On the basis of calculations shown in chapter 4, **under the 1950 census this quota ceiling would total 251,162 visas annually.**

A UNIFIED QUOTA SYSTEM—ALLOCATION OF VISAS WITHIN ANNUAL MAXIMUM

The selection of immigrants who may enter the United States should be made on the basis of considerations which advance our national interest, strengthen our economy and culture, protect our security, and win and keep friends for us among other nations.

The Commission's proposed substitute for the national origins system is a "unified quota system." It is a unified, or single, quota of one-sixth of 1 percent of the total population of the United States, instead of the 85 national quotas required under the 1952 act.

The Commission recommends that, within the annual maximum, the allocation of visas should be made in accordance with the following five categories, in the order determined by the proposed administrative agency:

The Right of Asylum

One of our national traditions is that we have provided asylum and haven to the oppressed of other lands. This we were able to do until 1924 because our law was flexible enough to meet such situations. Asylum for the oppressed is thwarted by the national origins system. For example, Congress had to bypass that system by enacting the Displaced Persons Act of 1948.

The United States is one of the few major democratic countries of the free world whose present laws impede and frequently prevent providing asylum. This is harmful not only to the cause of freedom and peace in the world, but to our own selfish best interests within our own borders.

The Commission recommends that one of the categories should be based on the right of asylum, available for refugees, escapees, expellees and other persons suffering from political, religious, and economic persecution.

The Commission realizes that such problems are of international scope and responsibility, which the company of free nations must jointly assume. However, our present immigration law hinders the United States from playing its reasonable part in such efforts.

The Commission believes that these categories normally should be subject to flexible application. **However, in connection with this category, and as a temporary statutory priority to go into immediate effect, the Commission recommends that provision should be made for the annual admission over a 3-year period of 100,000 such refugees, escapees, expellees, and remaining displaced persons.** Under this recommendation, the entire recommended increase in the annual number of visas would, for a period of 3 years, be used to help solve an existing emergency situation. **In this way, a basic immigration policy can be established which would promptly help to solve the existing emergency, and still remain within a flexible immigration pattern, obviating the need for periodic emergency and piecemeal legislation.**

Within the foreseeable future, this recommended category would apply principally to Europe rather than to Asia. The outstanding exception to this may be Japan.

The Commission's recommendations are based on existing world conditions. As shown in chapter 3, American participation in a coordinated international effort to provide migration opportunities for refugees, expellees, escapees and the remaining displaced persons in Europe could bring substantial alleviation to the emergency problem there caused by World War II and its aftermath. Unfortunately the same cannot be said for the refugee situation in Asia, where the number of persons affected by dislocations of World War II have been equalled if not exceeded in the postwar period.

Reunion of Families

The great American success story records that we are a nation of immigrants, and that a great part of our moral and spiritual fiber grows out of the sacred place of the family in American life.

The Commission recommends that one of the categories should be for immigrants whose admission would result in reuniting families.

Needs in the United States

Our immigration law should encourage entry into the United States of persons whose skills, aptitudes, knowledge or experience are necessary or desirable for our economy, culture, defense or security.

The Commission recommends that one of the categories should be for persons of skills or occupations to fill needs certified by the

Secretaries of Agriculture, Commerce, Defense or Labor, or by other appropriate officials, to be necessary in or desirable for the national welfare.

Special Needs in the Free World

The security and welfare of the United States are linked with the stability of the other free nations of the world. The economic, political and social conditions of other nations directly affect our capacity to preserve peace and freedom, develop international trade, and promote friendship among nations and peoples.

An important problem facing the free world today is overpopulation. Wherever it exists, the stability of the nation affected is threatened, and that nation's contribution to the defense against the totalitarian menace is lessened. For that reason, among others, all free nations, and especially the United States, are deeply concerned with the existence of such conditions and with efforts to reach solutions. In the interest of world peace and security, there is an urgent need for a cooperative international effort to move surplus people to parts of the world where they can more effectively and constructively participate in the national economy.

The Commission recommends that one of the categories should be for persons from countries of the free world where immigration to the United States can meet special needs and can provide substantial alleviation of hardships which threaten economic, political, and social stability in such countries.

Obviously, the United States cannot solve the entire world's overpopulation problem. This category should meet special needs,

(1) where population pressure is causing hardship and political discontent dangerous to the peace and stability of the free world, and

(2) where a reasonable amount of emigration would be effective in providing relief or alleviating tensions.

Since the application of this category should depend upon the existence of special needs which can effectively be dealt with by migration, the circumstances and special needs of the particular country are significant. For Western Germany, Greece, Italy, the Netherlands and perhaps Japan, emigration can serve as a safety valve for transitory problems of critical population pressures. These countries have reached a stage of economic development and population structure where both the need and desire for migration is most acute and where its result would be soon effective.

A concerted international effort to deal with this situation would serve to bring about a relatively manageable situation in which the

natural population increase of such countries can be readily absorbed for productive use within their own economies. Consequently, the category would provide some migration possibility for overpopulated countries of Europe, but not, at this time, except perhaps for Japan, for overpopulated countries of Asia, where the need is not for migration but for improved use of resources and greater economic development.

General Immigration

There are aliens who may be desirable immigrants merely because they are good people whom we should be happy to welcome. These aliens may not be refugees, or relatives of people in the United States, or from overpopulated countries, or possessed of special skills. They are the kind of immigrants the United States traditionally has received, and they can contribute substantially to our development. It is distinctly in our interest to keep alive the opportunity for enterprising immigrants to come here.

The Commission recommends that one of the categories should be for general immigration of all other qualified persons, without regard to national origin, race, color, or creed.

The Commission gave consideration to the desirability of applying this category on a "first-come, first-served" basis. Although in theory this might seem to avoid any taint of discrimination the Commission believes that in practice it may bring about the kind of discrimination which should not result from our immigration laws. Conceivably, a few countries of the world through early registration for visas might monopolize this part of the quota. A better plan, the Commission believes, is to use this category for the allocation of visas among such areas or regions of the world, as may be determined by the agency for the purpose. Within any area or region, as defined by the agency, the number of visas may vary from year to year, and should be issued on a "first-come first-served" basis.

The Commission suggests that the considerations to guide the agency in the exercise of its judgment in prescribing areas or regions should include, but not be limited to, benefits to the United States from granting the desires of peoples who are anxious to become permanent residents and citizens; and the opportunity to satisfy general needs of the United States for immigrants who do not qualify under any of the other categories.

The standards to be applied under this category should not be rigid. The agency charged with such a responsibility should have a reasonable latitude in reaching a fair, impartial, and workable

result, and should safeguard this category so that no one country, group, or area would obtain unfair advantages under its operation.

The Commission recommends that the allocation of visas within the proposed annual maximum quota, in accordance with the statutory standards, should be made by an independent administrative agency, established by Congress for that purpose among others, described in chapter 10.

The Commission recomends: (1) That such agency be headed by a commission; (2) that the proposed agency be authorized to determine, in the first instance, the number of visas, within the total maximum, to be assigned to each of the categories; (3) that there be public hearings before these determinations are made; (4) that such determinations be submitted to the President, and thereafter sent, with any changes he deems proper, to the Congress; (5) that such determinations become effective unless, within a specified time, Congress fails to disapprove of them by joint action of both houses; (6) that categories so approved shall remain effective for a period of 3 years, provided that, during the interim, the proposed agency may, at the direction of the President, submit other allocations to meet emergencies. Such new interim allocations should be subject to the same procedure as those originally made.

The Visa Division of the Department of State has advised the Commission that on the basis of present visa-control experience, and from the point of view of administration, a unified quota system is practicable and can be operated.

OTHER ASPECTS OF IMMIGRATION POLICY

Other aspects of immigration policy are related to the national origins system and quota limitation.

Nonquota Immigrants

Neither the national origins quota system nor the proposed unified quota system, nor numerical limitations upon immigrants to be admitted into the United States, covers all immigrants. Immigrants admitted for permanent residence, to whom neither applies, are called nonquota immigrants.

The Commission recommends nonquota status for all persons born in independent countries of the Western Hemisphere, regardless of race or color. The Commission recommends that all discriminations and restrictions against colonies in the Western Hemisphere, as a special class, should be eliminated.

The Commission recommends reinstating the previously applicable nonquota status for professors, clergymen and other persons, as such status was defined prior to the passage of the act of 1952.

The Commission recommends nonquota status for close relatives of citizens, with close relatives defined to include: (*a*) spouses, (*b*) children (including adopted and stepchildren), (*c*) parents and grandparents.

Restrictions Upon Immigration

It is intended that the Commission's proposed unified quota system will include qualitative restrictions upon individual immigrants. Such grounds for exclusion, relating to security, health, public charge, criminal record and other personal qualifications, are considered in Chapters 12 and 15.

Part IV

ADMINISTRATION OF THE LAW

The Administrative Agency

The Commission recommends:

1. That a Commission on Immigration and Naturalization be created, to be appointed by the President subject to Senate confirmation, responsible for the administration of all immigration and naturalization laws.

2. That present duplication of functions between the consular officers in the Foreign Service of the Department of State and the immigrant inspectors in the Immigration and Naturalization Service of the Department of Justice be eliminated, and that a consolidated service under an Administrator of Immigration and Naturalization responsible to the proposed Commission be substituted.

3. That a Board of Immigration and Visa Appeals be created under the proposed Commission, with final administrative appellate authority (except in cases involving the exercise of discretion) in all cases of visa denials, exclusions, deportations, and other related matters.

PRESENT ADMINISTRATION OF IMMIGRATION ACTIVITIES

Under present law, the various functions relating to immigration and naturalization are committed to two separate departments of government, both administering and interpreting parts of the same law and applying them to the same persons.

The Immigration and Naturalization Service, Department of Justice

The Immigration and Naturalization Service exercises its functions in connection with the law principally within the United States, in the admission or exclusion of immigrants seeking to enter this country, the apprehension and removal of deportable aliens, the conduct of naturalization proceedings, and the preparation of denaturalization cases.

Federal administration in the field of immigration began with the act of 1864, which established a Commissioner of Immigration whose function was to encourage immigration. This law was passed in a period of manpower shortage during the Civil War, and it was repealed in 1868. Thereafter there was no Federal agency charged

with the supervision of immigration until the first general immigration law of 1882 was enacted. The 1882 act vested responsibility for its administration in the Secretary of the Treasury, but actual enforcement was entrusted to State boards or officers designated by him.

Federal administrative enforcement began with the passage of the act of 1891 when Congress provided that there should be in the Treasury Department a Superintendent of Immigration, whose title was later changed to that of Commissioner General of Immigration.

The Bureau of Immigration was transferred from the Treasury Department to the Department of Commerce and Labor upon its establishment in February 1903. The Naturalization Act of 1906 inaugurated Federal supervision of naturalization and established a consolidated agency known as the Bureau of Immigration and Naturalization. In 1913, the consolidated bureau was moved to the new Department of Labor and was divided into the Bureau of Immigration and the Bureau of Naturalization. At the head of the Bureau of Immigration was a Commissioner General of Immigration, while at the head of the Bureau of Naturalization was a Commissioner of Naturalization. Both bureaus were placed under the immediate direction of the Secretary of Labor.

The two bureaus continued to function separately until 1933, when the President, acting pursuant to Congressional authority, directed by Executive Order that they be merged as the Immigration and Naturalization Service, headed by the Commissioner of Immigration and Naturalization. From 1933 until 1940, the Service functioned under the direction of the Secretary of Labor.

In 1940, the President submitted to Congress a reorganization plan which proposed to transfer the Immigration and Naturalization Service from the Department of Labor to the Department of Justice. The plan was approved and the transfer became effective June 14, 1940. Since then, the Immigration and Naturalization Service has functioned as part of the Department of Justice under the direction of the Attorney General of the United States.

Foreign Service, Department of State

The Immigration Act of 1924 vests the performance of the visa function, which consists of the granting or denial of visas in consular officers of the American Foreign Service abroad, which operates under the control and direction of the Department of State. Under the act of 1952, the authority to issue or deny visas is clearly and exclusively vested in the consular officers, and the statute directs that they shall not be subject to the supervision of the Secretary of State in this regard.

The requirement of a visa to enter this country is relatively new, and dates only from World War I when it was established essentially

as a war-time security device. This requirement to obtain visas from American consular officers abroad was given statutory recognition in the act of 1918. Under the Immigration Act of 1924, however, immigrant aliens seeking to come to the United States were required to establish in advance their eligibility under all the immigration laws and to obtain a visa from an American consul stationed abroad before embarkation. An immigrant was prohibited from entering the United States unless he was in possession of an unexpired immigration visa. However, the issuance of such a visa by an American consular officer does not guarantee his admission to the United States.

Other statutes have given additional responsibility under the immigration laws to the Secretary of State. Thus, under the Passport Act of 1918 as amended, the Secretary of State with the concurrence of the Attorney General, is authorized during the time of war or emergency to describe classes of aliens whose entry would be prejudicial to the United States. The Alien Registration Act of 1940 empowers the Secretary of State in emergency cases to waive documentary requirements for aliens seeking to enter this country.

To aid in the performance of the visa functions abroad under the immigration laws, a Visa Division was created in the Department of State. The Visa Division provides technical guidance and assistance to consular officers who themselves must determine initially the alien's admissibility to the United States.

In the final report of the Senate Judiciary Committee, following its recent study of the immigration system of the United States, the following recommendation was made:

> Because of the close relationship of the Visa and Passport Divisions of the Department of State and their importance in the control of immigration problems, the subcommittee recommends the establishment of a Bureau of Passports and Visas as an independent unit of the Department of State, headed by a Director with the rank of Assistant Secretary of State and subject to general supervision by the Secretary.

To meet objections of the Department of State the bill was revised to establish a Bureau of Security and Consular Affairs responsible to the Secretary of State, and closely integrated within the Department's framework. It was enacted in this form in the Immigration and Nationality Act of 1952.

Board of Immigration Appeals, Department of Justice

A third agency which functions in the immigration process is the Board of Immigration Appeals. During virtually all of the period when the Immigration and Naturalization Service was in the Department of Labor, there was no independent Board of Appeals. Originally, the Secretary of Labor was aided by an advisory committee in making his determinations under the immigration and naturalization

laws. In 1922 a five-man Board of Review was established in order to review all immigration cases and to make recommendations to the Secretary of Labor. The Board of Review had no power to make decisions, and was responsible to the Secretary of Labor, whom it advised. The Board of Review offered an opportunity for oral argument, submission of briefs, and more careful consideration. Also, it relieved the Secretary of Labor of the burden of considering a large volume of appeals. When the Immigration and Naturalization Service was established as a consolidated agency in 1933, the Board of Review became responsible to the Commissioner, and its recommendations were reviewed by him before being transmitted to the Secretary of Labor.

With the passage of time the procedures and the anomalous position of the Board of Review were subjected to increasing criticism. In 1931, the Wickersham Commission, studying the enforcement of Federal laws, advocated the creation of an independent tribunal so that the prosecuting and administrative functions in immigration matters would be completely separated from judicial duties. The latter duties would be vested in an independent tribunal, "composed of men of judicial caliber, to be appointed by the President." The Commission stated:

> The creation of such an independent tribunal for the determination of deportation cases seems to be the logical development of the present system itself. The Department of Labor has found it advisable to create a Board of Review within its own organization. As has been shown, this board has developed certain embryonic judicial tendencies, although the growth of these tendencies has been hampered by the subordinate position in the department which the board occupies. The next step in development seems clear—the dichotomy should be made complete. The Board of Review should be lifted out of its place in the Department of Labor and should be made an independent tribunal.
>
> Perhaps the closest analogy in structure to such a proposed tribunal is the Board of Tax Appeals, an independent governmental agency created by Congress in 1924. The Board neither initiates nor prosecutes the cases which are brought before it but in effect sits as a court. Its hearings are public and its decisions are reported. It has some power of appointment and is working out an elastic organization. Appeals are allowed in the respective circuits. The independence of this Board and the satisfactory nature of its decisions are generally conceded.
>
> There seems to be no good reason why we should not proceed at least as far in the establishment of a satisfactory system with respect to the important personal rights involved in deportation as we have with respect to the property rights involved in taxation.

From 1938 to 1940 the Secretary of Labor's Committee on Administrative Procedure made an exhaustive study of the Immigration and Naturalization Service. Its report stressed the necessity of freeing the Board of Review from other than quasi-judicial duties, stating that the agglomeration of duties placed on the members of the Board was indefensible, and that

It is folly even to talk of fair hearing by individuals who are struggling under such a load . . . The several thousand of admissions and deportation cases which would be referred to the Board under the arrangements we are suggesting are as much as its members can possibly consider with any semblance of fairness.

These recommendations were accepted and put into effect. In 1939 the Board of Review was removed from the control of the Commissioner and was made responsible only to the Secretary of Labor. When the Immigration and Naturalization Service was transferred to the Department of Justice in 1940, the Board of Review became the Board of Immigration Appeals and was placed under the immediate direction of the Attorney General. Unlike the Board of Review, which could make only recommendations, the Board of Immigration Appeals was empowered to make final decisions, subject to possible review by the Attorney General. Since 1940 it has continued to function as an arm of the Attorney General, independently of the Immigration and Naturalization Service whose decisions it reviews.

The Board of Immigration Appeals, composed now of a chairman and four associate members, never has been recognized by statute. It continues to function at the pleasure of the Attorney General and for his convenience. Its jurisdiction is defined in regulations which have been changed on a number of occasions during recent years. Its primary function is to hear and decide appeals in exclusion and deportation cases. However, since there is no statutory restraint the Attorney General could at any time abolish the Board of Immigration Appeals or modify its jurisdiction in any regard he deems appropriate.

UNNECESSARY DUPLICATION OF FUNCTIONS

The requirements of the Immigration Act of 1924 that approval must be obtained overseas before the alien could embark for the United States was an important improvement over earlier procedures. It enabled the alien to obtain an advance, but not final, determination of his eligibility before he pulled up his roots and undertook the long and expensive trip to the United States.

While acknowledging the distinct advances in administration made possible by this improved procedure, many have pointed out the resultant disadvantages. There is an obvious duplication in functions between the consular officer overseas and the immigration officer at the port of entry. The consul must determine the alien's admissibility to the United States before he can issue a visa. The immigration officer likewise must determine the alien's admissibility before he can permit him to enter the United States. Both interpret and apply the same law.

An additional consideration concerns the qualifications of consuls to make such determinations. The consular function is an old and

important one in international relations. The consul's traditional duties have related primarily to protecting the property and personal interests of American citizens in foreign countries and to the promotion of trade and commerce. The function added after World War I, of passing upon an alien's admissibility to the United States under the immigration laws has been regarded by some as a secondary one. The personnel to whom this function was assigned generally were insufficiently equipped at first by training and experience. Thus, the Department of State has reported to the Commission that only 3 percent of visa officers have had legal training despite the fact that the visa issuing officer is required to deal with "a great body of complex laws and regulations." It is important to note that the consul's negative decision on a visa application is final and unreviewable.

Soon after operations commenced under the Immigration Act of 1924 it became apparent that consular officers often lacked adequate training and background to discharge their new responsibilities under the immigration laws. These deficiencies resulted in a considerable volume of rejections at ports of arrival in the United States of aliens who had been granted visas. In order to aid the consuls immigrant inspectors were sent abroad in 1925 under an agreement with the Department of State and were attached as technical advisers to the consulates at London, Southampton, Liverpool, Glasgow, Belfast, Dublin, and Queenstown. Although the consular officer had final authority in determining whether a visa was to be issued, he usually was guided by the advice of the immigrant inspector.

This system was successful in operation and was extended to the Scandinavian countries, Poland, Czechoslovakia, the Netherlands, Belgium, Italy, Germany, and Austria. The reduced immigration during the depression of the 1930's resulted in a decrease in the number of technical advisers. In 1934, for example, there were nine immigration technical advisers stationed in Europe, each of whom was assigned to areas in Europe and traveled on circuit between the different consulates in that area. The technical-adviser system was terminated at the outbreak of World War II in Europe and has not since been reinstated.

During the displaced persons program, immigration inspectors were stationed overseas, and in effect passed upon the immigrants' admissibility after documentation with a visa, just as is ordinarily done at American ports of entry.

In 1949, the Hoover Commission on Organization of the Executive Branch of the Government recognized the deficiencies of the present system under which there is a dual control of immigration and recommended that the Visa Division of the Department of State be transferred to the Department of Justice. The Hoover Commission made two pertinent recommendations:

1. The State Department as a general rule should not be given responsibility for the operation of specific programs whether overseas or at home.

2. * * * the functions of visa control * * * should be transferred from the State Department to the Justice Department.*

The Hoover Commission Task Force Report on Foreign Affairs elaborated in two statements:

1. All visa responsibility, therefore, except with respect to diplomatic visas, should be placed in the Justice Department. Visa work presently performed by the Foreign Service abroad should be continued but in accordance with policies established by the Justice Department in consultation with the State Department.

2. The logical solution to the visa problem lies in the transfer of the Visa Division functions to the Department of Justice. Diplomatic visas, however, should remain under the jurisdiction of the Secretary of State.

Following publication of the Hoover report, the Department of State organized several committees to study the various recommendations. One of these committees was the Visa Task Force which presented its findings in a report (March 31, 1949) in answer to the Hoover Commission recommendations on location of the visa functions. This State Department report counseled against acceptance of the Hoover Commission's recommendation to consolidate immigration functions.

The study of the Senate Judiciary Committee which preceded the introduction and enactment of the act of 1952 likewise took cognizance of this duplication. However, the committee declined to recommend any substantial changes and stated:

Among the principal points of criticism aimed at the present immigration structure has been the contention that the multiplicity of control by several agencies of various immigration activities should be eliminated. In general, the subcommittee has come to the conclusion that, although there are some points in the mechanism where coordinated action is necessary and duplication must be eliminated, the over-all structural pattern ought to be maintained. The subcommittee is persuaded to the position on the grounds that (1) the distribution of responsibility places additional barriers in the way of undesirable aliens, additional fences of protection which the alien must surmount, and (2) the present system operates satisfactorily and the suggested modifications will eliminate most of the existing difficulties.

The Senate Judiciary Committee likewise addressed itself specifically to the recommendations of the Hoover Commission, and stated:

The subcommittee has given serious consideration to the proposal advanced by the Hoover Commission for a transfer of the Visa Division to the Department of Justice and its merger with the Immigration and Naturalization Service. As already pointed out, the subcommittee is persuaded to continue the visa process separate from the immigration procedure as an additional barrier to the entry of inadmissible aliens.

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*Report of Hoover Commission, on Foreign Affairs, House Doc. 79, 81st Cong., 1st Sess., pp. 32, 34.

The act of 1952 made no appreciable change in the organizational set-up except to establish in the Department of State a Bureau of Security and Consular Affairs. Provision was made within that Bureau for a general counsel of the Visa Office authorized "to maintain liaison with the appropriate officers of the [Immigration and Naturalization] Service with a view to securing uniform interpretations of the provisions of this act."

Feasibility of Consolidating Functions

All witnesses who addressed themselves to this problem in the Commission's public hearings urged that the functions of consular and immigration officers should be consolidated. The Commission agrees that this is a desirable goal. There is no reason why there should be two independent determinations of the same issue, except upon the basis of mistrust and fear. Every national purpose would be fully served by one thorough and trustworthy examination and determination.

The best available information indicates that this costly, unwieldy, and unbusiness-like duplication serves no reasonable purpose. It is hardly more than historical accident which has become, to some, a principle. An informal study in the Department of State a few years ago disclosed that in less than one-half of 1 percent of all cases where visas were issued by consular officers were the applicants rejected at ports of entry in the United States. The 1951 annual report of the Immigration and Naturalization Service supplied the following information concerning the number of aliens excluded at the border:

Table 13.—*Aliens Excluded From the United States, by Cause, Year Ended June 30, 1951*

Cause	Number excluded		
	Total	Border crossers [1]	Other aliens
All causes	5, 647	1, 863	3, 784
Without proper documents	3, 963	1, 180	2, 783
Criminals	610	273	337
Mental or physical defectives	434	97	337
Subversive or anarchistic	165	136	29
Stowaways	121	----------	121
Had been previously excluded or deported	119	72	47
Likely to become public charges	116	38	78
Immoral classes	38	23	15
Previously departed to avoid military service	14	10	4
Unable to read (over 16 years of age)	3	----------	3
Contract laborers	1	----------	1
Other classes	63	34	29

[1] Aliens seeking admission at land borders for less than 30 days.

Excluding from consideration border crossers and aliens without proper documents, this table reveals that during 1951 approximately 1,000 aliens in possession of visas were excluded by immigration officers at the ports of arrival in the United States. The extent of unnecessary duplication is revealed when this is compared with some 206,000 immigrants admitted during that same period, in addition to visitors.

In the Commission's opinion, the duplication in visa issuance and immigration examinations is wasteful and unjustifiable. The Commission cannot subscribe to the sentiment that this obstructive process is required "as an additional barrier to the entry of inadmissible aliens." By the same token such additional barriers can operate also to shut out desirable aliens; the relatively few inadmissible aliens it stops could be dealt with by a unified and more effective administration.

Similarly, the Commission is not impressed with the State Department's suggestion that the conduct of foreign relations requires the issuance of nondiplomatic visas by consular officers. The consular function did not until 1924 include the issuance of immigration visas. Nor is the State Department suggesting that foreign policy requires the determination of admissibility by consular officers at the port of entry in the United States.

The time has come to terminate the unnecessary and costly obstructions established by the duplication of visa and immigration examinations. This could be accomplished by eliminating overlapping and duplication through unifying these functions in a single process. The result will be a more effective administration of the law, a saving of Government expenditures, and a better location of administrative responsibility.

Operation of Proposed System

The Commission agrees with the Hoover Commission that a large program of such an administrative operation as the immigration law has no place in the Department of State, whose primary responsibility is the conduct of foreign relations. **The Commission recommends that the primary determination overseas of an alien's application for a visa to the United States should be made by officials of the same agency which determines admissibility at the ports of entry. Presentation of such visa at a port of entry in the United States should entitle an alien to be admitted without further inquiry except as to (1) identity, (2) any medical condition developed since the visa was issued, and (3) any evidence relating to subversive activities not previously considered.**

The Commission believes that there should be no substantial difficulty in establishing such a system of unified determinations in the

foreign areas where there are large volumes of applications for visas. In such places visa issuance is a full-time job for visa officers. There may be some rearrangement necessary for operation in isolated areas from which few applications for visas originate and where, therefore, full-time visa officers are not stationed. This is a problem of administrative management, susceptible of a variety of solutions. The Commission believes that in such areas the agency responsible for the consolidated functions could follow the normal procedure used by many Government agencies in connection with overseas activities. The consular officer could be designated as an agent of the immigration authorities to receive the application, which then could be forwarded, with the requisite documents and evidence, to the nearest overseas regional office of the consolidated agency. The determination would be made by an officer stationed in such a regional office. If the evidence is incomplete, he could request the consul to conduct any additional interrogation or investigation deemed necessary. Or, if advisable, the consular officer could in these few cases be authorized to act on behalf of the consolidated agency.

It has been suggested that there may be difficulty in stationing officers of the consolidated agency in some foreign countries. Immigration officers have already performed duties under our immigration laws in Germany, Great Britain, Canada, Italy, and in other countries. To satisfy any requirements of protocol such officers could be attached for technical purposes to our Embassies or other accredited offices with conventional titles.

The differences between present procedures and the consolidated procedure the Commission has recommended, including suggested appellate procedures, are illustrated in Chart I.

The consolidation of all immigration functions in one responsible agency is an essential aspect both of the new approach to immigration which the Commission believes to be long overdue, and of the efficiency in Government which it was the purpose of the Hoover Commission to reach. Whatever mechanical difficulties may arise from such a consolidation could, with proper spirit and good will, be overcome completely and promptly.

PROPOSED ADMINISTRATION OF IMMIGRATION AND NATURALIZATION

Nature of Functions

As conceived by the Commission, there are three major functions to be performed by administrative officials of the Government in the field of immigration and naturalization:

(1) Enforcement—this includes visa issuance, inspection and exclusion at ports of entry, policing, investigation, deportation, admin-

Chart I.—*Comparison of Present and Proposed Procedures*

Type of action	Present program	Proposed plan
Overseas:		
Action on visa	By American consular officer.	By officer of proposed commission.
Appeal	No regular appeal provided.	Appeal to statutory Board of Immigration and Visa Appeals.
Port of entry:		
Action on admission	By immigration inspector, with complete authority to review consular action.	By inspector but limited to (1) identity, (2) health, (3) security.
Determination on questionable cases.	To Board of Special Inquiry. After Dec. 24, 1952 to (single) special inquiry officer.	To hearing officer under Board of Immigration and Visa Appeals.
Appeal:		
Initial	To nonstatutory Board of Immigration Appeals.	To statutory Board of Immigration and Visa Appeals.
Final	No further appeal, but Board of Appeals may certify immigration cases to Attorney General and Attorney General may review on own motion.	Review by proposed commission in selected cases involving discretionary relief.

istrative prosecution, and the administration of the naturalization laws.

(2) Adjudication—this includes the determination of cases and of their appeals within the administrative process.

(3) Policy determination—this includes over-all policy formulation; the issuance of regulations for allocation of visas, within the statutory ceiling, subject to change by the President and disapproval by the Congress; and making reports and recommendations to the President and the Congress.

Another aspect of this problem relates more to attitude than to specific functions. The Commission is impressed by the suggestions it received that the administration of immigration laws should be such as to develop and maintain an atmosphere and spirit of friendship for immigrants. Whatever the cause, and often it is beyond the control of the administrative officials, the fact seems to be that the administrative procedures are unsatisfactory, and are productive of unnecessary and wasteful delays and embarrassments at home and abroad. This factor is an important consideration in the development of any administrative structure in the field of immigration and naturalization.

Location of Functions

Throughout the course of Federal immigration administration there has been no certainty as to the proper place of immigration functions. Originally, immigration enforcement was assigned to the Treasury Department. In 1903 it was transferred to the Department of Commerce and Labor. It moved to the Department of Labor in 1913, and in 1940 it was shifted to the Department of Justice. Through the years immigration and naturalization functions have been handled either by two bureaus or by a single bureau. The review process was nonexistent, then advisory, later part of the Immigration and Naturalization Service, and finally directly under the head of the Department.

Additional proposals to shift immigration and naturalization functions from the Department of Justice to another agency have been made from time to time. During the Commission's hearings there was a diversity of sentiment on this subject. Some proposed that the Immigration and Naturalization Service be returned to the Department of Labor. Others suggested that a new agency be created. Still others urged that matter be let alone.

The Commission's recommendations introduce a new function not now vested in either of the two departments. This new element, the allocation of visas, requires reconsideration of the entire matter since it is no longer a question of old functions remaining in Justice or State Department, but rather where new and consolidated immigration functions are to be placed. **The Commission has already expressed agreement with the Hoover Commission that it is inappropriate to put these functions in the Department of State.** In its recommendation that they be assigned to the Department of Justice, the Hoover Commission naturally did not consider the proposed new functions of visa allocation.

It may be argued that these combined functions should be vested in the Department of Justice because the immigration law involves responsibilities related to the national security and that these logically fit into the Justice Department's sphere of activity. The Commission believes, however, that the arguments to the contrary are more persuasive. Presumably, the primary security tie to the Department of Justice would be the necessity of close relationship with the Federal Bureau of Investigation. Actual practice, however, does not justify such an argument. The Immigration and Naturalization Service conducts its security functions through its own investigative unit which is completely separate from the Federal Bureau of Investigation. Its liaison with the Federal Bureau of Investigation could be just as close if the two investigative units were in different agencies. Furthermore, security functions concerning immigration were performed effectively by the Displaced Persons Commission, and were

closely related to the Federal Bureau of Investigation, the Central Intelligence Agency, and the Immigration and Naturalization Service, although the Displaced Persons Commission was an independent agency.

The Department of Justice is primarily a litigating and prosecuting agency. It includes the Federal Bureau of Investigation and the administration of Federal prisons, but these are natural arms of its prosecuting functions. There seems to be no good reason why the Department of Justice should be concerned with such matters as the allocation of visas to such preferential groups as may be authorized by Congress; with the issuance of visas to individual applicants abroad, and the subsequent operations at the ports of entry; or with citizenship education. None of these matters has any real relationship to the normal operations of the Department of Justice. The added responsibilities proposed by the Commission remove it further from such relationships.

On the other hand, there is every reason why many determinations made under immigration and naturalization laws should be removed from control by the Department of Justice. The Immigration and Naturalization Service has its own legal staff, separate from the various divisions of the Department of Justice, and conducts such matters in the same manner and to the same extent as do other departments of the Federal Government. If the existing and proposed new functions were combined in an independent agency, the Department of Justice would continue to handle at higher levels litigation originated in or with the independent agency in the same manner as is now done for other departments and agencies. There are those who believe that one of the present causes of criticism of the immigration laws stems from the fact that the administration of those laws is centered in a prosecuting and litigating agency. No sound argument has been advanced for keeping it where it is. **The new and combined functions do not properly fit in the Department of Justice.**

Nor is the Commission convinced by those who urge returning the immigration authority to the Department of Labor. This is not to say that the Department of Labor has no interest in the subject. But the major aspects of immigration and naturalization policy and administration are largely unrelated to the responsibilities of the Department of Labor. Furthermore, the immigration policy of the United States cannot be based solely upon manpower or labor considerations, although such factors are undeniably important.

Another suggestion is that immigration and naturalization functions should be located in the Federal Security Agency. That agency already plays a role in the immigration process through the medical examinations of immigrants by the Public Health Service, and because of the requirement of the act of 1952 for reports on social se-

curity information for the Immigration and Naturalization Service. It is argued that such a change would be desirable in the light of the Federal Security Agency's interest in people as such, whether aliens or natives.

The fact is, however, that the administration of the consolidated immigration and naturalization functions, coupled with the new responsibility for visa allocations, does not properly belong in any existing department or agency. It touches upon many, must work closely with some, but really has no basic connection to the primary responsibilities discharged by any of the other departments and agencies. The result is that the problems relating to immigration and naturalization do not command adequate thought and attention of the cabinet officers under whom either the Immigration and Naturalization Service or the Visa Division have been placed.

Independent Agency

This leaves only one other alternative, an independent agency. As a general proposition the Commission recognizes government administration should be organized within departments under the supervision of cabinet officers. But this administrative design gives way to the principle that in a democracy content should prevail over form. And so the Congress has established the Interstate Commerce Commission, the Federal Power Commission, and the Federal Communications Commission, among others which are not within cabinet departments. These agencies, as with the proposed consolidated immigration agency, exercise legislative, quasi judicial and administrative functions. Everyone will agree that the interests of the people are best served by that form of governmental administration which most effectively accomplishes the governmental purpose and not that which is motivated purely by administrative expediency.

The Commission believes that the major immigration functions described in this Report can be performed most effectively through an independent agency. The duties are so important, particularly in connection with the visa allocation authority, that the public interest requires a definite pin-pointing of responsibility, as well as the full-time attention which a cabinet officer cannot give.

The Commission believes that the creation by Congress of a new and independent immigration agency will assure the development of the fresh approach needed to change our immigration policy from a negative to a positive force.

The expert study, knowledge and experience required for visa allocation decisions, and for reports to the President and Congress, coupled with the other proposed new and highly important administrative and appellate duties and powers, make it advisable, if not mandatory,

that such authority be exercised by an independent agency headed by a commission.

Commission on Immigration and Naturalization

The Commission recommends the establishment of a new and permanent Commission on Immigration and Naturalization to have control and supervision over the entire field of immigration and naturalization. This proposed Commission would be composed of three, five or seven members, as the Congress may determine. They should be appointed by the President, subject to Senate confirmation.

Under this proposed Commission there would be an Administrator of Immigration and Naturalization, appointed by and responsible to that Commission, and who would be charged with all phases of administration and enforcement. Completely separate from the Administrator, but also appointed by and responsible to the proposed Commission, would be a Board of Immigration and Visa Appeals. That Board would have final authority to make necessary administrative adjudications in exclusion and deportation cases, subject only to a limited appeal to the proposed Commission in cases involving the exercise of discretion, but not in questions of law or fact, whenever that Commission agrees to accept such appeals. In addition to exclusion and deportation cases, the Board would hear appeals in visa cases and would also determine whether an alien may be excluded without a hearing in security cases, in the manner described in Chapter 15.

The Commission believes that such a plan would mark an important advance from the existing scheme of organization. It would produce much more effective and coordinated administration and would assure the required high-level consideration of allocations to be made within the unified quota system. It would bring the immigration process into line with the separation of functions contemplated by the Administrative Procedure Act, generally recognized as the norm of fair administrative organization.

If this Commission's recommendation for the creation of an independent Commission on Immigration and Naturalization is adopted, provision should be made for the personnel now employed by the Immigration and Naturalization Service, and by the Visa Division, performing functions affecting immigration in Washington and in the consular offices overseas. The present employees of the Immigration and Naturalization Service should be transferred to the proposed Commission and assigned duties under the proposed Administrator of Immigration and Naturalization. Present staff of the Board of Immigration Appeals and hearing examiners of the Immigration and

Naturalization Service should also be transferred to the new Commission and assigned to duties under the proposed Board of Immigration and Visa Appeals. The transfer of personnel working on visa matters in the Department of State and exercising the visa function abroad likewise should present no serious difficulty. It should be ascertained which employees in the Bureau of Security and Consular Affairs and which of our consular officers in foreign countries are engaged primarily in visa activities. Such employees should be transferred to the new Commission.

Moreover, any transfer of personnel from the Department of State and the Department of Justice to the new Commission should be made without prejudicing any status, rights, or privileges of such employees.

All pertinent records and files should be transferred to the proposed Commission, along with the transfer of functions and staff now vested in other agencies.

Chart II portrays the plan of organization suggested by the Commission.

Chart II—Proposed Administrative Agency

Commission on Immigration and Naturalization

1. Makes visa allocations, subject to review by President and Congress.
2. Makes study of all phases of immigration and naturalization, and sets policy.
3. Reports periodically to the President and Congress on immigration and related matters.
4. Supervises the Administrator of Immigration and Naturalization.
5. Reviews decisions of the Board of Appeals on questions involving exercise of discretion in cases in which it agrees to accept such appeals.

Board of Immigration and Visa Appeals

1. All appeals from Hearing Officers.
2. All appeals in visa cases.
3. All final determinations that hearing on exclusion is to be denied on confidential information.
4. Such questions as are referred to the Board by the Commission for advance determination.

Hearing Officers

Conduct administrative hearings and make determinations in exclusion and deportation cases and in all quasi judicial matters arising under immigration and naturalization laws.

Administrator of Immigration and Naturalization

In charge of all activities relating to the administration and enforcement of the immigration and naturalization laws, including:

1. Visa issuance overseas.
2. Preliminary inspection at port of entry.
3. Investigations.
4. Physical detention and deportation.
5. Border Patrol.
6. Administration of naturalization process.
7. Citizenship education.
8. Preparation and presentation of evidence before Hearing Officer and Board.
9. Routine determinations in cases not requiring hearings.
10. Preparation of materials for Commission's use in making visa allocations.

Fair Hearing and Procedure

Americans treasure a person's privilege to fair consideration in proceedings conducted by a Government official. The concept of fair dealing is enshrined in the Bill of Rights which guarantees that no man shall be deprived of his liberty without due process of law. It is rooted in centuries of solid experience in Anglo-Saxon law.

Testimony given at the Commission's hearings contains complaints by reliable witnesses to the effect that important aspects of our procedure for the consideration of applications by aliens to come into, and of their right to remain in, the United States are not fair.

There are several problems which arise in this connection. First, the present lack of any formal review of a consular denial of a visa. Second, the adequacy of the procedure for review of exclusion and deportation orders. And third, the nature of court review of administrative decisions. Each of these problems involves the fairness of consideration given to an alien.

THE COMMISSION RECOMMENDS:

Review of Consular Decisions

That the denial of a visa to enter the United States should be subject to review by a Board of Immigration and Visa Appeals.

Fair Hearing and Procedure in Exclusion and Deportation

That a Board of Immigration and Visa Appeals be established by statute, to be concerned exclusively with the adjudication of cases arising under the immigration laws.

That hearing examiners in exclusion and deportation cases be separated from enforcement functions and placed under the supervision of the Board of Immigration and Visa Appeals.

That deportation hearings be conducted in conformity with the Administrative Procedure Act.

That the caliber of hearing examiners be improved.

Judicial Review

That an exclusive statutory form of judicial review be established in deportation cases.

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That habeas corpus continue to be the form of judicial review in exclusion cases.

That there be no judicial review of actions denying a visa.

That the courts be specifically authorized to decide whether denials of bail pending determination of deportability are arbitrary or illegal.

REVIEW OF CONSULAR DECISIONS

The preponderance of the testimony before the Commission is to the effect that in giving complete and unreviewable authority to consular officers, the law and practice fail to conform with traditional American reliance upon fair hearings as a safeguard against abuse of power.

Present System

Under the present system the consul occupies a unique position in American law and practice. By express provision of law no one can review his decision on a visa application. The Secretary of State is charged with the general administration of the statutory provisions relating to the duties and functions of diplomatic and consular officers of the United States. However, the Secretary of State has no power to control or direct the consuls in certain visa activities. The Act of 1952 made crystal clear the finality of the consular officer's power in visa issuance by specifying that the Secretary of State could control all consular activities "except those powers, duties, and functions conferred upon the consular officers relating to the granting or refusal of visas."

It was repeatedly testified at the Commission's hearings that such administrative "absolutism" was unparalleled in the whole range of American law.

In the Senate Judiciary Committee's study the chief purpose for vesting such complete authority in a subordinate official doubtless was the Committee's desire to place "additional barriers in the way of undesirable aliens, additional fences of protection which the alien must surmount." The Committee evidently was unconcerned with the desirable aliens whose application might be improperly or unfairly denied if the consul's decisions were not reviewed. The Committee stated:

> . . . The subcommittee concludes, however, that to allow an appeal from a consul's denial of a visa would be to make a judicial determination of a right when, in fact, a right does not exist. An alien has no right to come to the United States and the refusal of a visa is not an invasion of his rights. Permitting review of visa decisions would permit an alien to get his case into United States courts, causing a great deal of difficulty in the administration of the immigration laws . . .

Every witness before the Commission who discussed the consul's absolute authority, criticized it without reservation. The chairman of the committee on immigration and naturalization of the administrative law section of the American Bar Association said:

> It has become a fundamental premise of our jurisprudence that the decision of weighty matters should almost never be placed in the power of a single individual free from the control of a superior reviewing body. We search in vain for any parallel in our institutions for this despotic consular absolutism. Relatively few decisions even of Federal judges are free from the possibility of appellate revision. But the consul is not only immune from review, but from any other kind of check, even of publicity. If there is such a thing as an axiom of law it is that where there is power there must be safeguards against the abuse of power. We have no doubt that consuls, as a group, are as conscientious and honorable as any other group of government officials. We may even assume that they are much more so. Still it is indefensible to give to any man, acting in secret in a remote land, autocratic power to grant or withhold a privilege of such enormous value as that of entrance to this country.*

Issuance or denial of a visa frequently involves complicated legal problems of eligibility and determinations of foreign law, such as whether a crime has been committed. Yet, as stated elsewhere, only 3 percent of the consular officers are attorneys. Consular officers are required to decide whether a prospective immigrant "is likely to become a public charge," medical questions, complicated security issues, occasionally involving knowledge of foreign political economic and social movements, and a host of other issues involving technical knowledge and the wise exercise of discretion. And yet, the visa-issuing consular officers are generally junior and subordinate officers in our consulates, and assignment to visa-issuing duties is not always regarded as a desirable post within the Foreign Service.

The Commission finds no persuasive reason why the determinations of a consular officer in visa cases should not be reviewed. The Commission assumes that all consular officers are loyal, disinterested public servants. But human beings do err, in interpreting law and assessing facts. It is undesirable to permit the possibility of control of human destinies by caprice, prejudice, or mistake, subject to no regulation or review. The Commission is informed that existing practices permit some opportunities for informal reconsideration. However, such reconsideration, which is generally limited to aliens who are able to interest sponsors, attorneys, or Members of Congress in their cases, is palpably inadequate. **The Commission recommends that a formal appeal procedure be established by statute, giving opportunity for appeal on the denial of a visa.**

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*The excerpt above is quoted from the statement of Prof. Louis L. Jaffe of Harvard Law School, Chairman of the Committee on Immigration of the Administrative Law Section of the American Bar Association, speaking for himself and for Prof. Henry M. Hart, Jr., of Harvard Law School, at the Washington hearing, October 28, 1952.

The Commission has sought advice from those urging such review as to the methods by which it should be established. **The Commission is convinced that there are no substantial practical difficulties to be encountered in establishing such a review procedure which cannot be easily overcome.** As a matter of fact, procedures have been established in comparable situations which are precedents for the Commission's recommendations.

World War II Visa Review Procedures.—Elaborate procedures to review applications for visas were in effect during World War II. Under such procedures, with few exceptions, all visa applications of aliens seeking to enter the United States, whether for temporary or permanent stay, had to be submitted in advance for central clearance in the Department of State. Such consideration was limited to security factors, and the determination was only as to whether the entry of the applicant would be prejudicial to the safety of the United States.

The procedure for such review of prospective visa action required the alien to submit detailed information in writing. In addition, the review agencies had a complete record which included such items as recommendations from the consular officer handling the case abroad, intelligence reports bearing upon the alien concerned, statements and affidavits from the sponsor and others, and miscellaneous information regarding the alien and his sponsors.

Three distinct visa review bodies were set up in this wartime procedure. The first was composed of interdepartmental committees comprising one representative from the Departments of State, War and Navy, from the Federal Bureau of Investigation, and the Immigration and Naturalization Service. These committees made recommendations to the Secretary of State. If accepted, they were sent on to the visa-issuing officers as advisory opinions. If rejected, the cases went on to the second link in the chain of review procedures, the Interdepartmental Visa Review Committees, composed of representatives of the same Government agencies involved in the first committees. Here, oral argument and representation by attorneys was allowed. If the Committee's opinion in any case was accepted by the Secretary of State, it became the Department's advisory opinion; if not, the matter was referred to the third and last stage, the Board of Appeals on Visa Cases which considered the whole file.

The Board of Appeals was composed of two persons appointed by the President, with an alternate. It held no hearings, and cases were decided on the basis of the written record, including statements and other materials available to the other review committees. The Board of Appeals operated for about three and a half years, from November

1941 to June 1945, and made definitive recommendations in 22,622 cases. In only one case did the Secretary of State not follow its recommendation. In over 73 percent of the cases, the Board of Appeals affirmed the Interdepartmental Visa Review Committees; in 26 percent of the cases it recommended in favor of the visa applicant after the Review Committee had recommended otherwise.

Present Visa Review Procedures.—Information supplied by the Chief of the Visa Division in the Department of State indicates that there is now in existence an informal procedure to review determinations in visa cases, both in advance of such determinations and after they are made. One entails a review by the Visa Division of the Department of State of visa cases still in course of processing at a consular post abroad prior to final action by the visa officer; in certain categories of cases such review is mandatory. The other entails review by the division after final action has been taken by a visa officer in issuing or, much more often, in refusing issuance of a visa.

Any visa case still under active consideration, and before final consular action has been taken, is reviewable either by the visa officer concerned, or his superiors in the field, or by the Visa Division upon request of the applicant or persons interested in his behalf upon presentation of good and sufficient reason. However, it is comparatively rare that such a request will be made by the applicant or other interested parties while the case is in process. Although in theory there is a review of consular action prior to final determination, in practice this is a reconsideration requested either by the consul or his superior, in the nature of purely administrative supervision, and not a review requested by the applicant immigrant.

The Chief of the Visa Division of the Department of State also advised the Commission of the procedures in effect concerning cases in which action has already been taken on a visa application. In cases of refusal, where there is more than one consular officer at a post, the refusals may be reviewed by such second officer as well as the supervisor. All refusals of visas are reported to the Department with explanatory information.

In addition, upon request by Members of Congress, attorneys, or other individuals in behalf of an alien, the case may be reconsidered in the Visa Division. However, there is no established or published procedure for the reconsideration of final consular action denying visas, nor any power to reverse the original decision. Occasionally, the file is sent for, and then each case is handled as a specific problem. But in any event, this review process is inadequate because at most it can result only in an "advisory opinion," and the issuing consul cannot be directed to reverse his determination.

These two so-called review practices are not in any sense appellate reviews; rather they partake largely of the nature of management or

administrative supervisory and reporting devices. Neither procedure meets the normal requirements for fair administrative review of decisions, for the following reasons:

(1) The alien is not given a right of review of his case;

(2) There is no definite review or appellate procedure. No specific review panels, appeal boards, or other similar formally established bodies function. If there is any review at all, it may be made individually by an officer of the Division, or by the Chief of the Division, or by an *ad hoc* panel of several division officers, depending upon the importance or complexity of the case.

(3) There is no published information on the opportunity for such review or the steps to be taken to obtain it. The procedure is based on unpublished departmental instructions to its staff.

(4) The consul is not bound by the "advisory opinion."

If the existence of these generally unknown and diverse methods of review have any value in this connection, it would seem that they are precedents for the creation of a more formal and improved review, one that would meet the test of fairness. One of the administrative problems to be solved in establishing a formal review procedure is the nature of the record upon which such review can be had. This problem apparently has been satisfactorily solved in the existing procedure for reconsideration of consular action. In such instances, the record of a case submitted for reconsideration consists for the most part of the applicant's dossier. This includes the data relating to him personally (biographical information and background data), together with statements offered in his behalf by interested parties, recommendations by the visa officer abroad, and in general all material which bears directly upon the issue which enables the reviewing authority to formulate a reasoned advisory opinion.

If the case is being reviewed on security grounds, the record must contain all data obtainable which relates to the applicant's status as a possible security threat, including intelligence agency reports and results of other investigatory bodies' inquiries. If the financial responsibility of the sponsor is in doubt, then the record will include all possible available data relating to his financial status, so that the reviewing authority may decide if sufficient financial ability and responsibility is indicated.

Review of Cases Involving Claims to American Citizenship.—In addition to the precedents and procedure for reconsideration of consular visa actions, there also are procedures to review consular actions in connection with passports.

(1) Board of Review.—Since 1941 procedures have been available in the Department of State permitting review of consular decisions denying passports. A Board of Review in the Passport Division was then established to consider appeals from determinations which deny

an American passport to a person abroad claiming United States citizenship.

The Board of Review has adopted no formal rules of procedure. The persons concerned may have their cases considered upon the basis of the material constituting the existing record plus any additional evidence they may desire to submit, or they may request a formal hearing at which witnesses may appear and the interested person may be represented by an attorney. The Commission is informed that the facts in the Department's possession are disclosed in such hearings and that the person concerned is given full opportunity to present his case.

(2) Board of Passport Appeals.—As a result of considerable public criticism of the procedures of the Department of State in denying passports for security reasons, echoes of which appeared in the testimony before the Commission by some of our outstanding scientists, a Board of Passport Appeals was established by the Department of State in August of 1952. Provision is made for tentative disapprovals of passport applications, accompanied by notice in writing of the tentative refusal "and of the reasons on which it is based, as specifically as in the judgment of the Department of State secrecy considerations permit." The applicant is entitled to appeal to a hearing officer of the Passport Division, to be represented by counsel, and to submit affidavits and other evidence.

If the decision of the Passport Division is adverse, the applicant is informed of such action and of his right to appeal to the Board of Passport Appeals. The Board is authorized to publish its rules of procedure and accords the applicant the right to a hearing and to representation by counsel.

This Board's jurisdiction includes appeal from actions by consular officers in denying passports for reasons of national security. The Board of Review has jurisdiction to review actions by consular officers denying passports because of doubts as to American citizenship.

(3) Denials of Certificates of Identity.—The law provides for the issuance of a certificate of identity to a person in a foreign country whose claim to United States citizenship is rejected and who desires to proceed to the United States in order to attempt to obtain a judicial declaration confirming his claim to American citizenship. The statute specifically provides that such an individual is entitled to appeal to the Secretary of State from the decision of a consular officer denying a certificate of identity.

Where a consular officer refuses a Certificate of Identity and an appeal is taken to the Secretary of State, the case is reviewed in its entirety by the Passport Division.

These precedents indicate the feasibility of procedures for reviewing consular actions on visa applications.

Recommendations

The Commission is convinced that there is no substantial reason for continuing the present system under which the consular officer's determinations in visa cases are final and not reviewable as of right. The Board of Immigration and Visa Appeals, the creation of which is proposed by the Commission, should have statutory authority to review all denials of visas, with full authority to reverse such actions and direct issuance of visas.

Where a visa is denied, either formally or informally, the alien should be informed in writing of the basis for such denial and of his right to have the matter reviewed by the proposed Board of Immigration and Visa Appeals. Upon the filing of such an appeal by an alien with the visa issuing officer, the latter should be required to forward to the Board a written report, accompanied by any pertinent affidavits or documents, describing the facts and the basis for his action. There should be no requirement of a formal hearing before the visa issuing officer.

The alien should not be authorized to come to the United States merely for the purpose of presenting his appeal. The alien should be entitled to know the grounds for refusal, except such as are determined by the Board to be unavailable for security reasons. The alien should be entitled to representation by counsel before the Board.

FAIR HEARING AND PROCEDURE IN EXCLUSION AND DEPORTATION

Consular decisions concerning a visa take place outside of the United States and before an alien has severed his ties abroad. Immigration authority decisions on exclusion take place when the alien reaches the shores or borders of this country. Orders of deportation affect aliens already resident in the United States.

Current Hearing Procedures

Exclusion—Examination Upon Arrival.—No alien may legally enter the United States unless he undergoes examination and inspection by the Immigration and Naturalization Service acting for the Attorney General. Since 1893, Congress has provided for administrative hearings in cases of arriving aliens whose admissibility to the United States is questioned. The courts have declared that such hearings, whenever provided, must be fairly conducted and that exclusion can be ordered only on statutory grounds.

Each such hearing is conducted by a special inquiry officer. Previous to December 24, 1952, the effective date of the act of 1952, the

hearings were conducted by three-member Boards of Special Inquiry, stationed throughout the United States.

The procedure on the alien's arrival is set out in considerable detail in the statute. If the alien's right of entry is in doubt the immigration officer may order his temporary removal for detention at a designated place, but such removal is not considered a landing in the United States. If the immigration officer questions the applicant's right to enter, he must refer the case to a special inquiry officer for a hearing. Proceedings before the special inquiry officer are conducted under oath and his determination must be based solely on the evidence produced at the inquiry. At such hearing the alien may be represented by counsel. A complete record is made of the proceedings and of all evidence produced by the Government and by the alien.

The alien has a right to appeal to the Board of Immigration Appeals in the Department of Justice from the exclusion order of the special inquiry officer. The filing of an appeal stays the execution of the exclusion order until final decision is rendered. The decision on appeal must rest solely on the evidence adduced before the special inquiry officer. Decisions of the Board of Immigration Appeals may be certified to the Attorney General for further review in exceptional cases upon request of the Attorney General, the Board, or the Commissioner of Immigration and Naturalization.

Simultaneously with the inspection by immigration officers, persons seeking to enter the United States are required to undergo a physical and mental examination by medical officers of the United States Public Health Service. Generally, the determinations of medical officers are subject to review only by a board of medical officers of the Public Health Service.

Aliens whose exclusion is finally ordered by immigration or medical officers must be deported immediately to the country whence they came at the expense of the transportation line which brought them.

Deportation.—Although some form of hearing has always been available to persons subject to deportation, no express provision existed in the statute until 1952. Nevertheless, the Supreme Court has held that a requirement for a fair hearing necessarily was implicit in the immigration law relating to deportation. The Court has held that the provision of the Fifth Amendment that no person shall be deprived of his liberty without due process of law applies to all persons in the United States, citizens and aliens alike. This guarantees to each alien in the United States, whether he be lawfully or unlawfully here, a fair hearing before his deportation can be ordered.

Deportation is not regarded as criminal punishment. However, it often entails great hardship. Consequently, the courts have insisted that deportation hearings must conform most scrupulously to the highest standards of fair play.

Under the 1952 statute, when a preliminary investigation indicates that an alien may be subject to deportation, application is made for the issuance of a warrant of arrest. Such warrants of arrest are issued only upon a determination that probable cause for deportation exists. When the alien is arrested, he is furnished with a copy of the warrant of arrest and notified of his right to counsel and release under bond. In virtually every case the alien is released under bond.

The hearing takes place before the special inquiry officer, who is authorized to administer oaths, present and receive evidence, interrogate, examine and cross-examine the alien or witnesses, and to make a determination as to the alien's deportability. In any case or class of cases designated by the Attorney General, an additional immigration officer may be assigned to present the evidence on behalf of the United States before the special inquiry officer.

The statute directs that the alien shall be given reasonable notice of the charges against him, that he shall have the privilege of being represented by counsel, as well as a reasonable opportunity to examine the evidence against him, to present evidence in his own behalf, and to cross-examine the Government witnesses. No order of deportation is valid unless it is based upon substantial evidence in the record of the hearing.

The alien is entitled to appeal to the Board of Immigration Appeals from an adverse decision of the special inquiry officer. A decision of the Board of Immigration Appeals is subject to review by the Attorney General only when such review is requested by the Attorney General, by the Board, or by the Commissioner of Immigration and Naturalization. If the alien's deportation eventually is ordered, he is taken into custody under a warrrant of deportation, if not already in custody, and deported.

The Issues

The ordinary test applied to a law or to a procedure is not what is done under it, but what may be done. Only in that way is it possible to determine whether it is open to abuse. Authorities in legal fields have long condemned procedures under which the same officials, or officials acting under the same administration, appear as complainants, as witnesses on their own complaints, and finally as judges to determine the result. The main issue here is whether reviews or appeals from the initial findings should be decided by officers not directly connected with those responsible for such findings. The issue here involves proposals for an independent appeals board, the separation of prosecuting and judicial functions, and provision for independent hearing examiners.

During the last 40 years, there have been at least eight appraisals of this issue by various individuals and groups. In general, they have dealt with the separation of judicial and enforcement functions and with the caliber of the hearing officials.

The Hoover Commission on Law Observance and Enforcement.—A major study of immigration procedures was prepared by the so-called Wickersham Commission in 1931, "The Enforcement of the Deportation Laws of the United States."

One of the principal criticisms in the Wickersham report was addressed to the practice of having the immigrant inspector perform the combined duties of investigator, prosecutor, judge, and enforcement officer. The report was critical of the Board of Review, since reorganized as the Board of Immigration Appeals, on the ground that it was not a statutory board and was the creature of the Secretary of Labor, who was authorized also to enforce and administer the immigration laws. It observed additionally that the Board lacked necessary discretionary power to alleviate hardships.

In its conclusions and recommendations the report sharply criticized the system of administration under which "one agency of the United States Government acts as investigator, prosecutor, and judge, with despotic powers." It recommended that

(a) The Department of Labor should be charged only with the duties of investigation and prosecution of aliens unlawfully in this country and of execution of warrants of deportation when issued. . . .

(d) An independent board, with some such name as the "board of alien appeals," should be created, composed of men of judicial caliber, to be appointed by the President. This board should be charged with the duties of issuing warrants of arrest, of conducting hearings on the warrants, and of deciding when warrants of deportation should be issued. Its findings should be published.

(e) The board of alien appeals should have discretion to allow even deportable aliens to remain in this country where deportation would result in unnecessary hardship to American families, or is otherwise found to be inadvisable. Discretion should also be given to admit aliens previously deported.

(f) This board should have broad powers in effecting its own organization. It should have the right to appoint subordinate officials, such as masters or examining attorneys; these appointees would act as officers of the board in the different localities and would be under its sole jurisdiction.

Van Vleck Study.—This study, "The Administrative Control of Aliens", published in 1932 under the auspices of the Commonwealth Fund, was made by Dean William C. Van Vleck of George Washington University Law School. It criticized various exclusion and deportation procedures. It strongly objected to the combination in the immigration hearing officers of the functions of investigation, prose-

cution, and adjudication. It pointed out that few of the inspectors had legal training. It recommended that the personnel of boards of special inquiry be improved, that the Board of Review be given statutory authority, and that deportation be made a judicial, rather than an administrative, process.

President's Committee on Administrative Management.—This group made the next major study of administrative procedure. While its scrutiny was not aimed directly at the immigration process, its report criticized the mixture of administrative and adjudicative functions in Government agencies. It observed that such "mixed duties" "constitute an unwholesome atmosphere in which to adjudicate private rights." The Committee also pointed out that:

> The same men are obliged to serve both as prosecutor and as judge. This not only undermines judicial fairness, it weakens public confidence in that fairness.

The Dimock Committee.—Probably the most comprehensive analysis and criticism of immigration procedures was that made by the Secretary of Labor's Committee on Administrative Procedure, the so-called Dimock Committee, which was appointed in 1938 and made its report May 17, 1940. The report pointed out that "the serious problem in deportation administration is bias or suppression of bias resulting from confusion of function," which was a consequence of "imposing upon the same inspector not only the duty of presiding over the hearing, but of actually prosecuting it." The Committee also spoke of the need for a "public guarantee of real insulation and independence of the inspectors who sit as trial examiners" and remarked:

> To assure to every alien in a contested proceeding a fresh hearing before an official with the special experience, standing, and point of view of an administrative judge would do much to minimize the dangers of abuse.

The Committee said:

> We recommend that the presiding inspectors be relieved of their present duties of presenting the case against aliens and be confirmed [sic] entirely to the duties customary for a judge. This, of course, would require the assignment of another officer to perform the task of prosecuting attorney . . .
>
> A genuinely impartial hearing, conducted with critical detachment, is psychologically improbable, if not impossible, when the presiding officer has at once the responsibility of appraising the strength of the case and of seeking to make it as strong as possible. Nor is complete divorce between investigation and hearing possible so long as the presiding inspector has the duty himself of assembling and presenting the results of the investigation. Considerations such as these have led the overwhelming majority of other Federal administrative agencies to adoption of the practice here proposed . . .

Finally, the report urged the need to attract personnel "who have the fresh, outside viewpoint which this ingrowing [Immigration and Naturalization] Service so badly needs."

Attorney General's Committee on Administrative Procedure.—This Committee made a comprehensive study of all Government processes, not limited to procedures in immigration cases. Its final report, submitted in 1941, stated that it had not undertaken a study of the Immigration and Naturalization Service because the Secretary of Labor's committee had just completed an exhaustive analysis. However, the Attorney General's committee likewise criticized the practice of combining the prosecuting and adjudicating functions in Government agencies, and stated:

> A man who has buried himself in one side of an issue is disabled from bringing to its decision that dispassionate judgment which Anglo-American tradition demands of officials who decide questions. Clearly the advocate's view ought to be presented publicly and not privately to those who decide.
>
> These types of commingling of functions of investigation or advocacy with the function of deciding are thus plainly undesirable. But they are also avoidable and should be avoided by appropriate internal division of labor. For the disqualifications produced by investigation or advocacy are personal psychological ones which result from engaging in those types of activity; and the problem is simply one of isolating those who engage in the activity. Creation of independent hearing commissioners insulated from all phases of a case other than hearing and deciding will, the Committee believes, go far toward solving this problem at the level of the initial hearing provided the proper safeguards are established to assure the insulation. A similar result can be achieved at the level of final decision on review by the agency heads by permitting the views of the investigators and advocates to be presented only in open hearings where they can be known and met by those who may be adversely affected by them.

The Committee also considered the advisability of completely severing adjudication from prosecution by creating separate agencies to handle each. It concluded that this would be too costly and cumbersome, and that the most feasible arrangement would be a severance of prosecuting from adjudicating functions within the agency itself.

The Senate Judiciary Committee Study.—The inquiry of the Senate Judiciary Committee which preceded enactment of the Immigration and Nationality Act of 1952 was intended as a "full and complete investigation of our entire immigration system." However, in the voluminous report issued by the Senate Judiciary Committee at the completion of its inquiry, the Committee merely described the prevailing exclusion and deportation processes. It submitted no recommendation for change in the deportation procedures. In regard to the exclusion process it recommended merely that the three-man board of special inquiry be reduced to one officer.

Several studies also dealt with the problem of the caliber of hearing officers.

The Immigration Commission of 1907 submitted its report in 1911. Its recommendations included one "to strengthen the certainty of just and humane decisions of doubtful cases at ports of entry." This

it sought to accomplish by urging that the boards of special inquiry "should be composed of unprejudiced men of ability, training, and good judgment . . . the character of these boards should be improved . . ."

The Jane Perry Clark Study in 1931, "Deportation of Aliens from the United States to Europe" urged statutory recognition for the Board of Review, and that its members and personnel be required to have legal training and higher qualifications.

The Administrative Procedure Act

A dominant note in many of these inquiries is their criticism of the failure to establish a clear division between the prosecuting and adjudicating functions of immigration officers. Such a severance has never been completely accomplished. Consequently it is significant that a major zone of controversy in immigration matters during recent years has been the issue as to whether the procedural requirements of the Administrative Procedure Act should apply to immigration proceedings.

The Administrative Procedure Act was enacted in 1946. It resulted from many years of debate and study concerning the need for improvements in Federal administrative justice. At the heart of this legislation, intended as a broad charter to govern the procedure of all Federal agencies, were its provisions for safeguarding the independence of hearing examiners. It provided that such examiners should be appointed for each agency only by the Civil Service Commission; that such examiners should perform no duties inconsistent with their duties as examiners; that their compensation should be prescribed by the Civil Service Commission independently of agency ratings or recommendations; and that they should be removable only for cause upon the determination of the Civil Service Commission.

Moreover, the statute prohibited private consultation by examiners with agency officers; forbade officers engaged in investigative and prosecuting functions in a case from engaging in the decision of that case; and directed that no hearing officer should be responsible to any officer engaged in prosecuting or investigating functions. These latter provisions are not applicable to the agency itself or members of the body comprising it.

Recognizing the widespread mixture of prosecuting and adjudicating functions found in many Federal agencies, the Administrative Procedure Act sought to achieve a limited separation of these functions within the framework of agency operations, and a substantial degree of independence in each agency's hearing examiners. According to the Supreme Court, the major purpose of the Administrative Procedure Act was "to curtail and change the practice of embodying

in one person and agency the duties of prosecutor and judge." The statute did not effect a complete divorce of prosecuting and adjudicating functions. But its directives were intended, no doubt, as a long step in the direction of that goal.

The Department of Justice took the position that the requirements of the Administrative Procedure Act were not intended to govern immigration proceedings. This resulted in litigation which eventually culminated in the *Wong Yang Sung* case,* where the Supreme Court concluded that deportation hearings were amenable to the Administrative Procedure Act. In its opinion the Court declared:

> The Administrative Procedure Act did not go so far as to require a complete separation of investigating and prosecuting functions from adjudicating functions. But that the safeguards it did set up were intended to ameliorate the evils from the commingling of functions as exemplified here is beyond doubt. And this commingling, if objectionable anywhere, would seem to be particularly so in the deportation proceeding, where we frequently meet with a voteless class of litigants who not only lack the influence of citizens, but who are strangers to the laws and customs in which they find themselves involved and who often do not even understand the tongue in which they are accused. Nothing in the nature of the parties or proceedings suggests that we should strain to exempt deportation proceedings from reforms in administrative procedure applicable generally to Federal agencies.

The Supreme Court decision dealt only with deportation hearings. The Supreme Court has not yet passed upon the applicability of the Administrative Procedure Act to exclusion hearings. However, the lower Federal courts found the requirements of that statute inapplicable to such exclusion hearings.

However, the Congress in a rider to an Appropriation Act enacted on September 27, 1950 negated this Supreme Court decision by a statutory exemption of "exclusion or expulsion of aliens" from the provision of the Administrative Procedure Act.

The Immigration and Nationality Act of 1952 does not deal directly with the Administrative Procedure Act. It repeals the Appropriation Act rider which specifically exempted immigration procedures. However, other directives of the statute forge a pattern which reveals an unmistakable purpose to exempt immigration hearings from the procedural requirements of the Administrative Procedure Act. Thus sections 236 and 242 specify that exclusion and deportation hearings are to be conducted before special inquiry officers and that the procedure described in the statute "shall be the sole and exclusive procedure for determining" an alien's right to enter or remain in the United States. Moreover, section 101 (b) (4) defines a special inquiry officer as:

> Any immigration officer who the Attorney General deems specially qualified to conduct specified classes of proceedings, in whole or in part, required by this

**Wong Yang Sung* v. *McGrath*, 339 U. S. 33 (1950).

act to be conducted by or before a special inquiry officer and who is designated and selected by the Attorney General, individually or by regulation, to conduct such proceedings. Such special inquiry officer shall be subject to such supervision and shall perform such duties, not inconsistent with this act as the Attorney General shall prescribe.

The apparent purpose of these provisions was to establish an exemption from the procedural requirements of the Administrative Procedure Act without specifically mentioning that statute. The regulations recently promulgated by the Immigration and Naturalization Service under the 1952 act have adopted that interpretation.

The Issues Reconsidered

The deportation process has come a long way since 1893 when a Chinese alien could be expelled from the United States unless the legality of his stay was attested by "one white witness"; or even since the 1920's with the "shocking spectacle of flying squadrons of inspectors moving about the country—a single official regularly making the investigation, holding the hearing and recommending a decision." Indeed, with some conspicuous exceptions both admission and expulsion procedures have advanced steadily toward the achievement of greater fairness. **The Commission observes those advances, but notes that some of the shortcomings that repeatedly have been subjected to heaviest assault by responsible and informed observers are still unremedied.**

(1) *Uncertain Status of Board of Immigration Appeals*

To the Commission it seems inexplicable that the Board of Immigration Appeals is not specifically sanctioned by statute, and owes its existence only to a regulation of the Attorney General. Several studies of the immigration process and very considerable testimony before the Commission have condemned this situation and have urged that such Board be given statutory recognition. A proposal to give such status to the Board was passed by the House of Representatives in the course of its consideration of the 1952 Act, but was eliminated by the Senate.

The tenuous status of the Board of Immigration Appeals, underlined by repeated changes in its allotted jurisdiction, is clearly undesirable. A quasi-judicial agency that exercises virtual life-and-death authority over thousands of human lives should be free to exercise its responsibilities in an atmosphere of stability and protection from pressures. In its proposals for organization of immigration functions (Chapter 10), **the Commission recommends a statutory Board of Immigration and Visa Appeals, with specific legislative authorization to make final administrative decisions in a wide variety of cases.**

The adoption of this proposal would be a step toward assuring fair hearings for aliens.

Aliens should be entitled to bring appeal to the Board of Immigration and Visa Appeals without the payment of fees.

(2) *Commingled Judicial and Prosecuting Functions*

A striking phenomenon in the jurisprudence of our day has been the crystallization of concepts for fair dealing in the administrative process. These concepts have been formulated by scholars, by the legal profession, by official studies, by the courts, and in the legislatures. They have included a universal condemnation of the situation in which one official or group of officials acts as investigator, prosecutor, and judge. This practice has been characterized as obnoxious to elementary standards of fair procedure.

Those who have appraised the immigration process likewise have condemned its mixture of prosecuting and adjudicative functions. They have described it as a roadblock to impartial consideration. The Supreme Court said recently that the administrative deportation hearing is "a perfect exemplification of the practices so universally condemned." But the attainment of insulation between prosecution and adjudication has been resisted and is today not yet a reality. The deportation process, although it touches countless human lives, thus has lagged behind other aspects of administrative justice. The major burden of the testimony of the American Bar Association was to urge the application of the Administrative Procedure Act to deportation proceedings.

The current hearing procedures should be examined in the light of the mandates of the Administrative Procedure Act. First is the need for restricting hearing officers to adjudicative functions, so that they will not be committed to the attitudes or aims of investigation and prosecution. In this connection the Administrative Procedure Act provides (1) that hearing officers "shall perform no duties inconsistent with their duties and responsibilities as hearing examiners"; (2) that investigative and prosecuting officers shall not participate in any decisions. From these requirements it would necessarily follow (3) that separate officers shall prosecute and preside at hearings.

Present practice conforms only partially with this first objective. Of 119 full-time hearing officers in the Immigration and Naturalization Service on October 1, 1952, only two performed extraneous duties. However, several hundred other officers, principally immigrant inspectors, are assigned part time to conduct hearings in exclusion cases.

With regard to the above item (2), the immigration statute now provides, like the Administrative Procedure Act, that special inquiry

officers shall not conduct proceedings in those cases in which they have participated in investigating or prosecuting functions.

In regard to the above item (3), the departure from Administrative Procedure Act is even more complete than under item (1). The act of 1952 provides that a special inquiry officer shall have complete authority to prosecute, hear, and decide exclusion and deportation cases, except that in some special classes of cases, fixed specifically or by regulation, an additional immigration officer may be assigned to present the evidence on behalf of the United States. The regulation does not require the assignment of an additional officer in any specific category of cases, but leaves the assignment to the discretion of the officer in charge of the district. In practice an examining officer was seldom designated, and in the vast majority deportation hearings were conducted entirely by a hearing officer, prior to the act of 1952.

The present hearing procedure in deportation and exclusion cases fails to conform to the now generally accepted standards for fair hearings. The normal practice in both exclusion and deportation cases under the act of 1952, is to have the entire proceeding conducted by a special inquiry officer who acts both as prosecutor and judge. Furthermore, officers normally performing investigating and prosecuting duties are authorized to conduct immigration hearings.

Another major facet of the Administrative Procedure Act is the removal of hearing examiners from the supervision of officers performing prosecuting and investigative functions. This goal likewise is not fully met by current immigration practices. Even full-time hearing officers are subject to the immediate supervision of the district director of the Immigration and Naturalization Service in administrative arrangements at the local level, and to over-all policy supervision of the assistant commissioner in charge of the inspections and examinations division. Both of these officials are concerned with enforcement. Under such an arrangement the hearing officer inevitably will tend to tailor his determinations to the wishes of his superior officers, whose sphere of action encompasses enforcement duties.

Indeed, the 1952 act explicitly declares that special inquiry officers "shall be subject to such supervision and shall perform such duties, not inconsistent with this act, as the Attorney General shall prescribe."

(3) *Independence and Competence of Hearing Officers*

Another major objective of the Administrative Procedure Act is to assure to hearing officers a measure of independence. This is done, in addition to the methods already discussed, by placing their appointment, ratings, compensation, and removal within the domain of the Civil Service Commission, independent of control in the agency in

which they serve. None of these objectives is reached by current immigration policies. Hearing officers enjoy no such independence of status. They are civil service officers and are subject to the normal powers of the Attorney General, as head of the Department of Justice, to appoint, compensate, rate, promote, and remove them.

The sponsors of the Administrative Procedure Act contemplated that the hearing examiner would be an officer with a high level of competence, and that the scale of his compensation would be adequate to attract outstanding individuals. **Current immigration administration falls short of these objectives.**

In the previous studies of the Immigration and Naturalization Service there has been a recurring recommendation for improvement in the caliber of hearing officials. Through the years there undoubtedly have been marked improvements in personnel, but many have said that such improvements have not progressed far or fast enough. The present complaint seems to be directed far more to the low concept of the role and function of such officers than to the officers themselves, some of whom are recognized as meeting the generally accepted standards for such important positions.

The Dimock committee reached the conclusion in 1940 that it was a mistake to recruit all hearing officers, as was done in 1940 and is still being done in 1952, through promotion from within the service. Of the 119 hearing officers now employed by the service, 74 formerly were immigrant inspectors, 18 were investigators, and 27 occupied miscellaneous positions such as naturalization examiner, patrol inspector, and officer-in-charge. Only 16 hearing officers are members of the bar and 5 possess law degrees but are not admitted to the bar. Thus less than 18 percent of the hearing officers have legal training. Thirty-two hearing officers possess college degrees. This means that approximately 60 percent of the hearing officers do not have college degrees or legal training.

The Commission is in accord with the conclusions of previous studies that it is of the utmost importance that hearing officers be possessed of adequate training and experience properly to discharge the duties assigned to them, requiring knowledge of intricate laws, regulations and court decisions and the capacity to deal justly with human rights and aspirations.

Closely related to the independence and qualifications of hearing examiners is their compensation. Manifestly, officers of high caliber cannot be attracted to these positions unless they are offered reasonable compensation commensurate with their responsibilities. The compensation scales of immigration hearing officers during recent years have never attained the reasonable levels fixed in most other agencies.

Recommendations

The deficiencies in the immigration hearing process seem clear. In large measure they result from a commingling of prosecuting and investigating functions, from the absence of real independence in the officers who hear and decide cases, and from what is said to be the inadequate qualifications of some of the hearing officers.

The Commission believes it imperative not only that immigration hearings accord a maximum of fairness, but also that they give others confidence of fairness. In order to improve immigration administration, to insure greater impartiality in rendering judgments, and to bring to the decision of cases under immigration laws a fresh and more humane point of view, the Commission makes the following recommendations:

Separation of Organization.—In the recommendation for a Commission on Immigration and Naturalization (Chapter 10), provision is made for a division of organizational responsibility between an Administrator of Immigration and Naturalization and a Board of Immigration and Visa Appeals. The Board of Immigration and Visa Appeals would be a statutory board whose members would be appointed by the Commission. The Board would be concerned exclusively with the adjudication of cases arising under the immigration laws. **The entire process of adjudication would be concentrated in the Board, which would be independent in deciding cases.** Its decisions would be administratively final on all issues of law and fact and would be subject to review by the new proposed Commission only in regard to the exercise of discretionary authority.

Separation of the Hearing Function.—**The Commission recommends that the examiners who hear and decide exclusion and deportation cases be separated from any enforcement functions. This would be accomplished principally by placing such examiners under the supervision of the Board of Immigration and Visa Appeals and removing them from the control and direction of any enforcement officials.** Such examiners would be prohibited from performing any duties outside of their responsibilities as hearing officers.

A number of witnesses have urged also that the procedural requirements of the Administrative Procedure Act be applied to immigration hearings. The spearhead of this proposal is the American Bar Association, whose representative testified at the hearing, in part as follows:

> We do not doubt the good faith of the Service nor its disposition to give fair hearings. We do not deny that the act is an improvement on the rider of 1951. But we return to the fundamental proposition that the provisions of the APA taken in their entirety represent a careful, well-considered view of the minimal

procedural protection needed in a trial involving accusatory elements. This is not less but indeed more true of deportation proceedings than of other proceedings to which APA is applicable. The interest of a person about to be deported and of his relatives and close friends is among the weightiest and most significant that can be imagined.

The need for invoking the purely procedural directives of the Administrative Procedure Act doubtless will be lessened by the adoption of the Commission's proposal for the separation of adjudicative functions from enforcement, subject only to a limited right of appeal. It may perhaps be urged that there is still a possibility that immigration hearing officers, lacking the relative independence of examiners chosen in accordance with the Administrative Procedure Act, may ultimately come under the influence of enforcement officials. To minimize this possibility, to remove a constant source of needless controversy and litigation, and to bring the deportation process in line with the uniform administrative procedures established by the Administrative Procedure Act, **the Commission recommends that deportation hearings be conducted in conformity with the procedural requirements of the Administrative Procedure Act.** All this would entail, in addition to the division of functions and organization recommended, is that a prosecuting officer be assigned to assemble and present evidence before the deportation examiner. There can be no substantial objections to making this a routine rather than the exceptional requirement it is under the 1952 act. The practical difficulties would be negligible and the added costs inconsiderable.

In reaching the conclusion that the added costs will be inconsiderable, the Commission has not lost sight of the estimates given to the Congress by the Immigration and Naturalization Service, that the increased cost for that particular year would be almost $4,000,000, and that if all aliens charged in deportation cases demanded hearings the extra annual expense might reach 25 or 30 million dollars. These calculations were on the theory that in the case of every alien apprehended because illegally in the United States, a hearing would have to be given him by an independent hearing officer with the aid of a prosecuting officer.

For the last fiscal year, the Immigration and Naturalization Service completed 42,258 deportation hearings. At the same time, voluntary departure without a hearing was allowed in 694,200 cases. If hearings were conducted under the Administrative Procedure Act it would still be permissible for the service to permit voluntary departure without bringing the case to a hearing, as is the practice today. No factual basis whatever has been offered to support the conclusion that every alien apprehended because illegally here, or any number of aliens greater than those now accorded hearings, would demand a hearing if operating under the Administrative Procedure Act. Actually, every

alien charged in deportation proceedings at present has a right under the United States Constitution to demand a fair hearing, so that the opportunity for delay exists even now for those disposed to resort to dilatory tactics.

It has been suggested that a deportation hearing under the Administrative Procedure Act would be more time-consuming and, therefore, more aliens would demand a hearing in order to remain in the United States longer. It is difficult to perceive the validity of such an assumption. In fact, it would seem that as a hearing officer under the Administrative Procedure Act would be relieved of the duty of studying a case in order adequately to act as a prosecuting officer, with that function being placed in another official, hearings should be less time-consuming than is now the case.

Clearly, applying the Administrative Procedure Act to deportation proceedings will be somewhat more costly than is true under existing law and regulations. That cost, however, should be limited to the expense involved in hiring additional personnel to act as prosecuting officers. Judging this added cost against the benefits of a completely impartial and objective hearing, the Commission is of the opinion that fiscal considerations should not operate against the adoption of the Administrative Procedure Act in deportation proceedings under the immigration laws.

The Commission believes its recommendations in connection with deportation hearings meet the substantive requirements for a fair hearing, and comply fully with the spirit and purpose of the Administrative Procedure Act.

The exclusion process seems to be governed by somewhat different considerations. It deals with an alien who is outside the United States and who is not in a position to claim procedural protections equal to those accorded to an alien who has established residence in the United States. The American Bar Association has not officially favored application of the Administrative Procedure Act to the exclusion process. Moreover, in the admission process at the numerous ports of entry along the seacoasts and land ports of the United States there is special need for speed and flexibility in passing upon cases. **The application of the Administrative Procedure Act to the exclusion process would seem to hamper effective administration, and the Commission does not recommend that course now.** It believes it would be advisable to study the results of experience under the proposals it has made before reaching a decision as to the need for additional measures.

In the meantime, under the plan recommended by the Commission, the hearing officers who consider applications for admission would be responsible to the Board of Immigration Appeals and not to enforcement officers.

In addition to the other reasons against the application at this time of the Administrative Procedure Act to exclusion, the Commission believes that it would be inappropriate to attempt to use that act to control the procedure of visa issuing officers stationed overseas.

The proceedings before such visa officers should be free from unnecessary complications. Generally, their determinations would be made on a written record, consisting of an application and supporting documents. Unless extended inquiry is found necessary, there would be no need for any formal hearing in such cases. The visa issuing officer's determinations would be subject to review by the proposed Board of Immigration and Visa Appeals. This procedure would provide appreciably greater assurances of fair play to the applicant for a visa than is available under present law.

Improvement in Caliber of Examiners.—Such improvement will follow to some extent from the severance of adjudication from administration. Freedom from ties with enforcement doubtless will tend to alter the outlook of hearing officers. But changed organizational management will not in itself meet the need, to which many of the studies called attention, for improvement in the caliber and the competence of some of the hearing examiners.

JUDICIAL REVIEW

With the growing complexity of modern life, it has been necessary to develop specialized administrative agencies of government, many of which take on quasi-judicial functions which previously were conceived of as being wholly within the area of court action. This development of administrative justice has raised the important problem of the relationship of such quasi-judicial administrative agencies and the normal court system. There has been some uncertainty as to the precise extent to which the courts would, or even should, inquire into the merits of issues which have been resolved by the quasi-judicial administrative process.

This same uncertainty has been present in immigration. The legal scholars in general seem to agree that in the area of administrative law, including immigration, there has been a steadily widening zone of intervention by the courts.

The issues are twofold: first, whether there should be any judicial review of the action of immigration officials; second, whether such judicial review should be limited to a determination of the reasonableness of executive action, or should re-examine the merits.

These issues arise in different phases of the immigration process:

Deportation Orders

The statutes never have directly sanctioned judicial examination of deportation orders. On the contrary, they always have confided to administrative officers the function of determining whether an alien should be deported, and have provided that the determination "shall be final." Such is still the provision of the 1952 act. The courts have supported this grant of authority to administrative officers; the Supreme Court has stated that they are authorized to function "without judicial intervention."

Although the immigration law lacks a specific statutory authorization for judicial review of deportation, the courts have held that an alien could question a deportation order through a writ of habeas corpus. The proceeding affords to each person deprived of his liberty a speedy and effective means of testing the legality of his detention. But it is not a full judicial review of the issue; it only enables the courts to ascertain whether the deportation order was supported by substantial evidence, was issued on the basis of legal authority, and after a fair hearing. The courts have not attempted to decide in habeas corpus proceedings whether the administrative findings were wrong but rather have determined whether the proceedings were fairly and legally conducted.

Until the enactment of the Administrative Procedure Act in 1946 the courts uniformly held that the writ of habeas corpus was the exclusive method of contesting a deportation order. Since then, the legal situation has been somewhat confused. Efforts have been made to invoke court remedies under the Administrative Procedure Act and under the previously enacted Declaratory Judgment Act, and both forms of proceeding have been sanctioned in some of the lower Federal courts. Perhaps by the time this report is completed the Supreme Court will have ruled on the matter.

The 1952 act contains no specific provision concerning judicial review of deportation orders. The congressional conference report on that bill stated that "the safeguard of judicial procedure is afforded the alien in both exclusion and deportation proceedings," but it does not explain or indicate just how.

The attempts to enlarge the remedies that might be pursued to question orders of deportation doubtless have been engendered in large measure by a conviction that the relief afforded through the writ of habeas corpus is inadequate. No one would dispute that the writ of habeas corpus has furnished sturdy protection to individual rights in deportation cases. However, that writ can be obtained only by a person who is actually in physical custody. The alien, therefore, is unable to bring court proceedings until an attempt is made to enforce

the order of deportation. This has meant that he was obliged to undergo detention before he could obtain a court ruling.

The Commission requested the advice of the United States Solicitor General's office concerning the possibility of improving and clarifying the avenues for judicial review of deportation orders. The views expressed in the Acting Solicitor General's response were formulated with the concurrence of the Immigration and Naturalization Service of the Department of Justice. The Acting Solicitor General stated:

> I am strongly of the opinion that the form and other incidents of the judicial review of deportation orders should be clarified by legislation.

He recommended clarification of the existing uncertain situation by a statutory substitute of "a single, fair, and expeditious review" for the habeas corpus proceeding. He observed:

> It is inconvenient to the alien and of no corresponding benefit to the Government that he cannot challenge a deportation order which is otherwise final until he has been taken into at least nominal custody.

He also suggested that the statute include assurances for speedy consideration of such cases and reasonable safeguards against dilatory and multiple litigation.

The Commission agrees with these views and recommends the creation of a statutory form of judicial review of orders of deportation. Just how this should be developed is a matter for legislative draftsmanship. The Commission is not wedded to any particular means of providing a clear and precise procedure for judicial review of orders of deportation.

However, as some indication of what such proposal might involve, the following is suggested as one means of accomplishing this recommendation:

(*a*) The immigration statute should include specific authorization for judicial review of deportation orders after the administrative decision has become final. Although the precise designation of such a court proceeding is unimportant, this remedy could appropriately be called a petition for judicial review.

(*b*) Enforcement of the order of deportation should be subject to the right to file a proceeding for judicial review within a period of 60 days.

(*c*) Although there is a logical justification for channeling review proceedings directly to the United States courts of appeals, the heavy volume of such cases might overburden those courts. On balance therefore it might be preferable that the petitions for review be brought in the United States district courts. If this view be taken, such suits should be maintained in the district of the plaintiff's residence, rather than in the District of Columbia, in order to avoid a concentration of cases in one court.

(*d*) Because of protracted calendar delays in the trial of civil actions in some Federal courts, the statute should make provision for simplified pleadings and expedited consideration in the same manner as habeas corpus proceedings are now expedited. Moreover, **the statute should preclude multiple attacks upon deportation orders by providing that this special review proceeding shall be the exclusive remedy.** Such procedure will give the alien respondent in deportation proceedings a prompt and effective remedy, but will restrict him, in common with all other litigants, to a single mode of review.

(*e*) Because deportation will continue to be an administrative, rather than a judicial function, court review should be restricted to an appraisal of the legality and fairness of the decision, and should not reconsider the merits of the controversy. **Therefore, the scope of review of deportation orders could continue to be governed by provisions of the Administrative Procedure Act, which substantially conforms with the scope of judicial inquiry fashioned by the courts themselves in deportation cases.**

Exclusion Orders

Under present law and court rulings the alien applying for admission to the United States who is stopped at the port of entry does not have status or legal protections equivalent to those granted to an alien already admitted into the United States. However, the Supreme Court long ago decided that an alien so barred from the United States had the right to institute habeas corpus proceedings, to determine whether the exclusion was ordered on grounds prescribed by Congress.

The availability of habeas corpus has been an important privilege to aliens whose exclusion has been ordered. The excluded alien ordinarily remains in confinement at the port of entry and the writ of habeas corpus seems a suitable vehicle for obtaining a court ruling. Moreover, the Commission is not aware that the form of the remedy has caused any real difficulty. **Consequently the Commission recommends that there be no change in existing formulas for review of exclusion orders after final administrative review by the proposed Board of Immigration and Visa Appeals.** This would mean that the writ of habeas corpus will continue to be the appropriate remedy open to an alien excluded at a port of entry who wishes to challenge a final order of exclusion.

Denial of Visa

Although the precedents are meager, it seems doubtful whether under present law a rejected applicant for a visa can bring court proceedings to question the adverse determination. Elsewhere the Commission recommends that the proposed Board of Immigration

and Visa Appeals review determinations denying visas. One of the objections to granting such administrative review has been the apprehension by some that it might invite further review in the courts.

Although the purpose to be served by such review is an old and cherished one—protection against arbitrary or illegal official action—the legal right recommended is a new one. The Commission believes it desirable to await experience with its proposed administrative review of visa actions before consideration of judicial review. **Therefore, the Commission recommends that at this time the review by the proposed Board of Immigration and Visa Appeals, of a decision denying a visa, should not be subject to judicial review.**

Bail

The immigration laws do not recognize an absolute right to release on bail for an alien against whom deportation proceedings are pending. Although the privilege of bail has been granted almost universally, there have been some instances in which bail has been denied.

The legal authority to refuse bail prior to a determination of deportability was challenged in the courts and eventually was supported by the United States Supreme Court in *Carlson* v. *Landon*, 342 U. S. 524 (1952). The Supreme Court was closely divided on this issue, but the majority sustained the denial as a necessary administrative weapon to be used against aliens who are active adherents of the world Communist movement, and declared that the aid of the courts could be invoked to determine whether this power was being arbitrarily or illegally exercised.

The act of 1952, section 242, provides that courts shall have authority to review determinations denying bail in deportation proceedings only upon "a conclusive showing . . . that the Attorney General is not proceeding with . . . reasonable dispatch." This provision apparently attempts to preclude the courts from considering whether denials of bail have been arbitrary or illegal.

The Commission recommends that the courts be given specific authority to decide whether denials of bail pending hearings and determinations in deportation cases are arbitrary or illegal.

In summary, apart from bail cases, no additional substantive judicial review is recommended by the Commission. The procedure and form of judicial review in deportation cases should be clarified, but no new or additional judicial review or court procedures are recommended in exclusion or visa denials. Here the Commission believes that experience with the proposed new rights and procedures set up in connection with the proposed Board of Immigration and Visa Appeals should determine what, if any, further steps should be taken.

Part V

OTHER MAJOR ASPECTS

The Admission of Aliens

The immigration law incorporates two different selective devices, group selection and individual selection. The unified quota system and the national origins system both deal with immigrants by group characteristics. Once a group is selected, either in the nondiscriminatory manner of the unified quota system or by the discriminatory method of the national origins system, there still remains the problem of deciding whether a particular individual from that group is desirable and should be admitted.

The President's directive to the Commission required that particular consideration should be given to

> . . . the requirements and administration of our immigration laws with respect to the admission, naturalization and denaturalization of aliens, and their exclusion and deportation.

As a sovereign nation the United States has full power to decide which aliens it will admit and which it will permit to remain. These questions are resolved by Congress. The Commission's discussions of what should be done, therefore, are concerned not with the power of Congress under the Constitution but with the nature of the provisions appearing in the law.

A primary function of the restrictions in our immigration law is to protect the United States against aliens who are actually or potentially undesirable. But it is difficult to reconcile this sound and important aim with the excessive punishments contained in our immigration laws, or with the attitudes of suspicion and distrust which seem to motivate them. Any objective study of the present grounds for exclusion of aliens makes it obvious that hostility to the alien is a major characteristic of our immigration statutes.

The Immigration and Nationality Act of 1952 is unbelievably obscure, complex and permeated with burdensome and unnecessary detail. Opinions may differ concerning some of the substantive requirements of the act of 1952, but there is a virtual unanimity of opinion to the effect that its draftsmanship leaves much to be desired. Although to some extent this may be attributed to poor technical arrangement, the major cause seems to be the attempt, through excessive technicalities, to minimize any opportunity for humane interpretations and to increase the opportunity for harsh results.

The Act of 1952 consists, in an official edition, of 119 closely printed pages. There are seven pages of definitions of words and phrases. The statute has 143 separate sections, some of which have dozens of subdivisions, provisos, and exceptions. One of the justifications given for enactment of the 1952 law was that it would clarify and simplify the previous law. However, former immigration laws, although not always models of clarity, were far more intelligible.

Some of the formidable difficulties of interpretation and administration posed by the statute were described by the Attorney General of the United States, in his testimony before the Commission, in which he observed:

> It is my opinion that the new act does not achieve the simplicity of arrangement to be expected of an exhaustive codification. It may even bring about further complications of administration.

Even immigration experts are appalled at the complexities of the act of 1952, but to the nonexpert this legislation is all but incomprehensible. A professor of law at one of the leading universities testified before the Commission that he was compelled to read one of the sections 13 times before he thought he understood it.

The Commission's objections to the law are much more fundamental. The Commission believes that aliens have a right to expect fair and just treatment by our laws and in their administration. Although it is true that the alien cannot claim as a matter of right the protections of our Constitution, when knocking at the gates of entry into the United States, nevertheless, our immigration laws and administration must be governed by a high sense of decency, tolerance, and respect for the individual human being. In many of the present statutory grounds for exclusion of aliens these qualities are now absent.

THE DEVELOPMENT OF QUALITATIVE EXCLUSIONS

The immigration laws have never directly described the type of individual who may enter the United States. Instead, our early immigration policies were founded on the premise that all immigrants were acceptable. The first century of free immigration was followed by the introduction of gradually increasing restrictions which described only the unwelcome groups. Thus our immigration law today does not describe "whom we shall welcome", but rather whom we shall reject.

The tabulation of categories of unwanted aliens has grown through the years, as more were added to the rolls. In 1862, the first approach to Federal regulation penalized traffic in coolie labor. In 1875 the importation of prostitutes and convicts was prohibited. The first general legislation of 1882 added bans upon paupers, lunatics, idiots, and persons likely to become public charges. Chinese were barred the

same year, in legislation substantially retained in effect until 1943. Legislation after 1882 expanded the prohibited lists to include contract laborers; insane persons, paupers, and persons suffering from loathsome and contagious disease; epileptics, imbeciles, professional beggars, and persons suffering from tuberculosis; feeble minded, physical defectives, and persons admitting commission of crimes involving moral turpitude. The codification of 1917 added to the excluded classes illiterates, psychopaths, alcoholics, stowaways, vagrants, persons suffering a previous attack of insanity, and natives of a geographical area commonly known as the "Asiatic Barred Zone." Outstanding among subsequent enactments were the laws aimed at subversives.

In the historic development of the immigration laws there was bound to be an accumulation of legislative provisions that had become archaic and had proved to be unnecessary or inequitable. Consequently a recodification of our immigration laws could have been especially useful in correcting manifest inequities, and in bringing the law into line with modern needs. But the act of 1952 failed almost entirely to achieve these salutary goals. Although it did effect one major improvement in terminating the complete exclusion of Orientals, the new law overlooked or deliberately rejected the opportunity to strike out many obsolete and excessively severe survivals from the past.

GENERAL CRITICISMS

The Commission recommends that the provisions of the act of 1952 relating to exclusion of immigrants should be revised so as to eliminate the unwise, the unfair, and the obsolete grounds now contained in the law.

The Commission believes the act of 1952 has failed as a purported codification and modernization of the immigration laws. Some of the reasons for these statements are:

Excessive or Irrational Penalties

Shutting off the opportunity to come to the United States actually is a crushing deprivation to many prospective immigrants. Very often it destroys the hopes and aspirations of a lifetime, and it frequently operates not only against the individual immediately affected but also bears heavily upon his family, in and out of the United States.

The United States should protect itself against the entry of aliens who are dangerous, diseased, or otherwise undesirable to the good order and welfare of our country. The immigration statutes necessarily must exclude those aliens who are subversive, criminal, or suffering from serious mental or physical disabilities. But no rational purpose is served by excluding aliens forever for mistakes of the past, if they now are respected members of society.

These are broad generalizations, but they describe situations unfortunately too prevalent in our immigration statutes. For example, an alien is permanently barred from entering the United States if, 20 years ago, he stole a loaf of bread to feed his hungry family and was convicted for that offense. The fact of an exemplary life since has no bearing upon his admissibility.

Excessively Broad Catch-Alls

Throughout the exclusionary provisions of the immigration laws there are vague restrictions, which may result in undue penalties in barring aliens.

Examples of this type of restrictive discretion include: (a) the authority granted to the President "for such period as he shall deem necessary, [to] suspend the entry of all aliens or any class of aliens as immigrants or non-immigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate;" (Sec. 212 (e)); (b) the exclusion of aliens who "in the opinion of" the consular officer or the Attorney General are likely at any time to become public charges; (Sec. 212 (a) (15)); and (c) the barring of aliens who the consular officer or the Attorney General has reason to believe are seeking to enter the United States to engage in prejudicial activities. (Sec. 212 (a) (27) and (29).)

The Commission believes that latitude in administrative action is frequently a desirable objective. However, such discretionary authority should not be limited to permitting flexibility only for the purpose of imposing additional restrictions. Moreover, such discretionary authority should not be nebulous and undefined but rather should contain some standards controlling the administrative action.

Lack of Sufficient Discretion To Cope With Hardships

The act of 1952 has either deleted or severely curtailed discretionary authority to alleviate hardships, although it is written in such a way as inevitably to produce situations of great inequity.

The Commission recommends that the head of the agency administering the immigration laws be authorized in individual cases, subject to certain exceptions, to exercise discretion to admit otherwise inadmissible aliens, upon a finding that the case is a meritorious one and that the alien's admission would not be detrimental to the United States. In relation to new immigrants seeking permanent residence this would not include authority to waive inadmissibility in cases involving present subversive activity or affiliation, serious medical or other named reasons. **It is intended that such discretionary authority would be subject to adequate safeguards and would be exercised in relatively few cases.** The Commission's proposal has

precedent in the immigration law which now sanctions waivers of the documentary requirements on a limited basis, and—prior to the 1952 act—authorized waivers of inadmissibility under certain circumstances.

The expansion of administrative authority to ameliorate hardships in exceptional cases would introduce into the law a highly desirable element of flexibility. Such provisions have abundant precedent in the immigration processes of Great Britain, Canada, Australia, and of most other countries, which confer upon immigration officers the power to waive any immigration requirements in individual cases. The grant of limited discretionary authority to immigration officers in the United States would be a desirable step in the direction of an enlightened immigration policy.

Returning Lawful Residents

Under present law, every time an alien living in the United States leaves the country, no matter how brief his absence, his legal immigration status on return is as if he had never been in the United States. Under this so-called "reentry doctrine," an alien residing in the United States for 25 years who crosses the border to view Niagara Falls, to shop or visit in Windsor, or to take a short excursion to Cuba or business trip to Europe, is subject to the same exclusionary injunctions as an alien coming to the United States for the first time. These identical restrictions apply, even to an alien who has obtained from the immigration authorities an official reentry permit before leaving the United States.

Thus, if a lawfully resident alien becomes afflicted with tuberculosis in the United States he is not deportable for that reason. But if he happens to cross the frontier, he is regarded as inadmissible on his return, perhaps a few hours later, because as an immigrant suffering from tuberculosis he must be barred, even though he may have resided lawfully in the United States for many years and contracted the disease here. Similarly, if a lawfully admitted alien is convicted of theft 10 years after he entered, but has a good record otherwise, he is not deportable and may in fact be eligible for naturalization. Yet, if he leaves the United States on a short visit, he is deemed inadmissible on his return as an immigrant who has previously committed a crime involving moral turpitude. He is consequently precluded from reentry, even though he has a reentry permit, has resided in the United States for many years, may have a family, home, and job here, and may be concededly a person of good character.

The grounds for exclusion in the immigration laws were designed to bar newcomers whose entry would be harmful to the United States. Aliens who are admitted lawfully are permitted to remain unless an offense committed in the United States renders them deportable. The

Commission cannot find any reasonable justification for the use of immigration laws to entrap residents of the United States who were not amenable to deportation so long as they continued to be physically in the United States but who happened briefly to cross the international boundary line.

The Commission recommends that the provisions directing the exclusion of aliens shall not be applicable to aliens who have established lawful permanent residence in the United States and who are returning from a brief absence. If there are causes which would warrant the deportation of such aliens had they continued to remain in the United States, these causes should be the basis for deportation proceedings. If these causes would not have made them aliens subject to deportation had they remained in the United States, their brief absence should not create basis for exclusion.

A reentry permit issued by the appropriate Federal official should assure a resident alien the privilege of return to the United States.

Aliens Returning to Irregular Domicile in the United States

The reentry doctrine has been applied to aliens lawfully in the United States who seek to return following temporary absence. However, another situation concerns aliens whose original entry was irregular but who may have resided in the United States for many years and who may have established a home and close family ties here. Recognizing the important humanitarian considerations involved in such cases, the so-called Seventh Proviso in the Immigration Act of 1917 authorized the waiver of grounds for inadmissibility in the cases of aliens returning to a domicile in the United States which had been maintained for a period of 7 years. It has been held by the immigration authorities that such relief was available to an alien whose original entry was irregular. This ruling has made possible the alleviation of many hardships.

The 1952 act has sharply reduced the opportunity to grant such relief. The statute permits amelioration only when the departure abroad was not under an order of deportation and when the alien is returning to a lawful domicile. These restrictions foreclose any opportunity for relief to many aliens who may have resided in the United States for many years, and who may have their homes and families here.

Examples of cases that have arisen in the past will illustrate the effect of the law.

Case I:

The alien, a native and subject of England, was 40 years of age. He had resided in the United States continuously, with the exception of visits to Canada, since the age of 18, when he had entered illegally. He was the father of five

native-born children. His family was totally dependent upon him for support. He had been employed in Detroit, Mich., for about 14 years and was earning $75 a week. He was buying his own home and had war bonds. Twenty years ago on a plea of not guilty, he had been convicted on a charge of simple larceny for the theft of a newspaper valued at 3 cents. He had no other arrest record. The record reveals the alien has led an exemplary life in the United States. He could readily obtain an immigration visa if the crime, the ground of inadmissibility, were waived under the Seventh Proviso. He was granted such waiver which also permitted him to reenter the United States to join his wife and family when in possession of his visa.

Under the act of 1952 no relief would be available to the alien in either exclusion or deportation proceedings.

Case II:

The alien was a 41-year-old married woman, a native of Ireland and last a subject of Great Britain. Twenty-four years before, at the age of 17, she was convicted in Toronto, Canada, for stealing various articles of apparel and was sentenced to a prison term, of which she served about 1 year. She entered the United States unlawfully in 1924 or 1925 and resided in the United States except for short visits to Canada. She last reentered in 1937. Since 1926 she has been entirely dependent upon her husband, a legally resident alien who was then an applicant for naturalization. She had no arrest record other than the one concerning the conviction in 1922.

This ground of inadmissibility was waived, under authority of the law, and the alien was admitted into the United States. Under the act of 1952, the alien would be inadmissible. No discretionary authority is allowed to admit her.

The 1951 Annual Report of the Immigration and Naturalization Service reveals, that from 1947 to 1951, inclusive, a total of 1,162 applications for exercise of Seventh Proviso relief were received; 1,028 applications were granted and 134 were denied. In 1951, 140 applications were received; 121 were granted and 19 denied. Of those granted, 22 cases involved physical or mental defects; 86 cases involved the commission of crime; 9 cases involved illiterates; and in 4 the grounds were not shown. The average length of residence in the United States where favorable action was taken was 23 years.

In explanation of this new provision of the act of 1952 it is argued that the previous authority to ameliorate hardships only encouraged efforts at illegal entry. On the other hand, an "illegal entry," which under the 1952 act would bar such ameliorative relief, could result from the purely clerical error of a consul in assigning an incorrect quota nationality to the alien.

The heaviest impact of such provisions in the act of 1952 falls on the wives and children of those aliens who cannot now be readmitted to rejoin them in the United States. **The Commission recommends that the 1952 act's restrictions upon the exercise of Seventh Proviso authority be repealed.**

Temporary Visitors

The law makes no significant distinction between exclusionary grounds applicable to aliens entering the United States for permanent residence and those who are temporary visitors. The prospective visitor to the United States, no matter how brief his intended stay, is subject to exclusion in the same manner as an immigrant seeking to come to the United States to spend the rest of his life.

The general effect of this situation was called to the Commission's attention in the hearings in connection with temporary and short-time visits of scientists, scholars, artists, and businessmen.

It impedes the free movement of aliens who desire to enter the United States temporarily for legitimate purposes. Its impact has been unfortunate along the Canadian border, where residents of Canada often are required to pass briefly through the United States en route from one point in Canada to another. It has caused embarrassments and annoyances to distinguished scientists, scholars, and others who have wished to visit the United States for brief attendance at professional meetings.

It is desirable to permit an alien to pass through the United States from one part of Canada to another in order to avoid a difficult (and in some cases nonexistent) passage through neighboring regions of Canada. It likewise is desirable to encourage visits by aliens to the United States for business, study, or pleasure. The entry of such persons should not require the same standards that govern the admittance of persons who intend to take up permanent residence in the United States. The Air Transport Association of America testified before the Commission:

> The encouragement of business and pleasure travel favors not only the carriers, but promotes national interests of far-reaching importance. . . . [The consuls] can call for vast data from each alien whether good or bad, and can make every requirement a reason for delay. Too many aliens already feel that this is the policy followed today. On the other hand, they can recognize that just as there are aliens who are obviously inadmissible so there are also many more who are legitimate travelers whose visits should be encouraged. For those in this class, the application should be received immediately, and the visa issued promptly. . . .

Many of the exclusionary provisions of the immigration laws are concerned with long-term political, moral, and economic risks. Manifestly such long-term considerations aimed at the prospective permanent resident, often are not relevant in dealing with an alien who seeks to come for a short stay.

The Attorney General has had authority, under the so-called Ninth Proviso, to permit the temporary entry of otherwise inadmissible aliens. Similar authority, hedged in with considerable language and many restrictions, is continued in the act of 1952. But the exercise of this discretion generally entails long delay, usually for a determina-

tion by an official in Washington, D. C. Such delays often cause cancellation of the visit.

The Commission recommends that the law ordinarily should apply to nonimmigrants or temporary visitors only such exclusionary grounds as are directly concerned with the health, safety, and security of the United States. The otherwise applicable provisions for waiver would be available to visitors and nonimmigrants.

Aliens From United States Possessions

Alaska, Hawaii, Puerto Rico, the Virgin Islands, and Guam are regarded as part of the United States for the purposes of the immigration laws. This means that no alien can enter those territories until he has been thoroughly screened under the immigration laws, and has satisfied every requirement for entry into the United States. In addition, since 1917, the immigration laws required that aliens coming from our insular possessions be subjected to the same restrictions as if they were coming from a foreign country. The 1952 act continued this policy and extended it to Alaska, which was not previously included. In his testimony before the Commission the Director of the Office of Territories of the Department of the Interior, stated:

> We believe that no useful purpose can be served by requiring such a second examination. The requirement appears to us to be burdensome, valueless, and discriminatory. An alien residing in Alaska, which is a part of the United States as defined in the immigration law, should be as free to travel to Seattle as an alien residing in Seattle is now free to travel to Spokane. Each is traveling from and to points within the United States. There should be no greater burden upon one than upon the other.
>
> . . . Introducing such complications to travel between the Territories and the continental United States can produce no salutary consequences. Normal intercourse with the Territories will be hindered, and this in turn may be expected to have an adverse effect on the rapidity of Territorial development.
>
> Although the legislative history of section 212 (d) (7) is not revealing, we surmise that the drafters were motivated by a belief that it would advance the security interests of the United States. We submit that security considerations are no less important in the Territories than they are within the continental United States. This is surely particularly true of such strategic areas as Alaska, Hawaii, and Guam. A person who cannot enter the continental United States for security reasons should not be allowed to enter the Territories. We would hope and anticipate that immigration officers would be as conscientious in the performance of their duties in the Territories as they are in the continental United States, and that a second examination of the same alien would be mere duplication.

Officials and others from Alaska pointed out to the Commission that these new provisions would require the examination of United States citizens as well as aliens traveling between continental United States and Alaska, would impede travel and commerce between those areas, and had already aroused strong resentments. The Department

of the Interior emphasized that like difficulties exist in other principal possessions—Hawaii, Puerto Rico, the Virgin Islands, and Guam.

This discrimination against inhabitants of the possessions of the United States seems to be unsound. In view of the critical importance to the security of the United States of Alaska, Hawaii, Puerto Rico, the Virgin Islands, and Guam, the sowing of distrust and resentment in those areas, by the imposition of unwarranted discriminations, seems directly opposed to the national interest and security.

The greatest vigilance should be and, the Commission is informed, is exercised to prevent the admittance of undesirables into our Territories. **The Commission recommends that an alien lawfully admitted to permanent residence in any part of the United States, including Alaska, Hawaii, Puerto Rico, the Virgin Islands, and Guam, should not be again subjected to the requirements of the immigration laws when he travels to the mainland or to any other part of the United States.**

Obsolete Requirements

In many instances, the immigration statute retains archaic language that no longer has any clear meaning. This failing appears in the medical exclusions, which the United States Public Health Service has described as outmoded and often meaningless. That Service pointed out that the 1952 act made little change in the medical criteria included in earlier legislation, and recommended that the obsolete language of the statute be conformed to modern medical knowledge.

Specifically, the Public Health Service has stated that the terminology, "insane," "feeble-minded," and "mental defect," "have no exact medical significance for modern diagnosis," and may result in inequities. The Public Health Service has recommended that the terms "idiot," "imbecile," "moron," and "mental disease," be substituted as more consonant with contemporary medical concepts.

The Commission approves these recommendations of the Public Health Service.

Other examples of obsolete requirements continued in the statute could be cited. Thus, for example, the statute purports to bar paupers, professional beggars, and vagrants, groups now obviously comprehended within the general exclusion of persons likely to become public charges.

The Commission recommends that unnecessary duplication and obsolete requirements be eliminated from the law.

Subversives

Because of the paramount importance of security protections during the present critical period, the provisions of the immigration laws dealing with subversives are discussed separately in chapter 15.

Criminals and Other Groups

The interest of our society in rejecting the criminal elements of other nations has always been an important factor in our immigration policy. The earliest Federal statutes barred the entry of convicts, and a similar policy has been reflected in every subsequent Federal enactment.

The developing Federal legislative design gradually has enlarged the restrictions aimed at criminals. An act of 1891 prohibited the entry of aliens convicted of a crime involving moral turpitude, and an act of 1907 introduced a prohibition against immigrants who admitted the commission of such crimes. In the 1952 act these prohibitions are amplified, and in addition exclusion is ordered in cases of aliens convicted of two offenses without regard to moral turpitude, where aggregate sentences of 5 years or more were imposed.

Permanent Bar for Single Crime.—The conviction of a single crime involving moral turpitude, regardless of the circumstances under which conviction occurred and regardless of the length of the intervening period, forever precludes an alien from admission to the United States.

This law ignores the vast differences between kinds of offenses. It fails to recognize the possibility of redemption or reformation. It disregards intervening family ties and neglects the effect of arbitrary action on the alien's family. It overlooks the fact that the most important asset an immigrant brings to us is his future not his past.

While the 1952 law grants some power to forgive youthful indiscretions, this authority is hedged in with so many limitations that it is virtually valueless. **The Commission recommends that the law provide administrative discretion to waive the ground for exclusion of an alien who has been convicted of a single crime involving moral turpitude, where it is determined that the alien has been a person of good moral character for a given period of time such as, for example, 5 years, and that he is not a person of criminal tendencies.** This proposal would make possible an assessment of whether his life evidences that he will be a decent, useful member of American society.

In exercising such discretion the administrative officers would be required to take into account the gravity of the crime, the genuineness of the reformation, the alien's family ties, and other considerations.

The Commission does not recommend that there be any discretion to permit permanent entry where the alien has been convicted for two or more crimes involving moral turpitude, arising out of separate criminal transactions. Such a history seems sufficient to demonstrate the criminal disposition of the applicant and to warrant his exclusion.

At the same time the administration of the statute should take into account the irrationalities of criminal penalties in totalitarian countries. Although the statute excludes convictions for political offenses, it is well known that totalitarian countries often make political punishments under the guise of prosecutions for ordinary criminal violations, such as frauds against the State and larceny. Our immigration laws should not be used to enforce totalitarian "justice." **Therefore, the Commission recommends that where the conviction for a crime or crimes involving moral turpitude was rendered by a court in a totalitarian country, the administrative officers should be authorized to inquire into the circumstances of the crime in order to determine whether the conviction actually was for a crime or crimes involving moral turpitude under American standards.**

Although the designation of crimes involving moral turpitude has not been entirely satisfactory, it has not caused excessive difficulties. The principal problem in this connection is its indiscriminate application to both major and minor offenses. A youthful indiscretion in stealing seven shoelaces, or a frantic father's theft of food to feed a hungry family, are "crimes involving moral turpitude." **The Commission recommends that the statute specify that minor infractions are not within the contemplation of "crimes involving moral turpitude" so as to bar entry. The immigration law should also permit consideration, which it does not, of any pardon or other form of clemency that may have been granted by the foreign government under whose laws a crime was committed.**

Conviction for Two Offenses.—A new provision in the act of 1952 prohibits the entry of aliens who have been convicted of two or more offenses, regardless of whether they involve moral turpitude, where aggregate sentences of more than 5 years were imposed. Despite the reservation in the Congressional Conference Report, the Commission believes that this new provision in effect would penalize aliens who were subjected to false or trumped-up charges in totalitarian countries.

In his testimony before the Commission, the Attorney General of the United States urged amendment of this provision. He said:

> Practical difficulties of enforcement result from this provision when it is realized that totalitarian countries consistently mask religious, racial, and political persecutions as criminal prosecutions * * * The practical problem of enforcement is that many aliens from Iron Curtain countries undoubtedly con-

tend that they were convicted of "crimes" when no crime has been committed and their sole offense was being politically opposed to those in power.

It will be impossible to determine the truth or falsity of such claims. Trustworthy investigation to establish the truth or falsity cannot be made in the countries involved. Hence, I believe, there should be some clarification by statute of the nebulous middle ground between crimes and political offenses.

Boris Shishkin, speaking in behalf of the American Federation of Labor, observed:

A realistic distinction should be made between the justice meted out by totalitarian courts and those which accord with the basic criteria of the law of our own land. In a totalitarian country, such as Communist Russia or Nazi Germany, individuals are arrested and jailed every day for all types of minor violations of the existing laws, or for no violation at all, even though such persons, even under the totalitarian law, are guilty of no political offenses. A worker who is late to work in the Soviet Union may be thrown into jail. This is no political offense and should obviously be no grounds for exclusion from admission to this country. There are many other similar examples. The 1952 law, in effect, accepts Nazi and Communist laws and the decisions of Nazi and Communist police officials and courts as the basis for excluding refugees from totalitarian countries from admission to this country. There can be no justification for such a provision. The law should be changed so that the principles of our own law and our own system of government should be the criteria used in determining whether to admit or exclude aliens.

Walter Reuther, recently elected President of the C. I. O., commented:

* * * Workers who protest speedups behind the Iron Curtain, who sabotage Red war production, who organize free trade unions such as our own, are criminals in the lands under Red domination. If caught in these acts they become criminals in the eyes of the United States and are forever unable to come to our shores.

The Commission finds these objections valid. There are also further reasons why this new provision of the act of 1952 is objectionable:

1. It reiterates the philosophy that there can be no rehabilitation where an alien has once erred.

2. It does not require an alien to be convicted of what are regarded as crimes, as distinguished from minor infractions. Conviction for any offense or violation of law is sufficient—walking on the grass; smoking in an unauthorized place; acts of juvenile delinquency; providing religious education to children in Iron Curtain countries; listening to the Voice of America—convictions for these offenses would be sufficient to bar the alien.

3. It does not require actual imprisonment for any period. Convictions where sentence was suspended would suffice.

4. It makes foreign governments the final arbiters of American law. Where exclusions are based on the commission of crimes involving moral turpitude, the determinations are made by using standards applied in the United States. No such American standard is relevant in the provision requiring exclusions for the conviction of two offenses.

Conviction and sentence are sufficient, regardless of the nature of the offenses.

5. Just as there are varying systems of justice in all countries, there are different standards controlling the sentencing of persons convicted of offenses. Courts in some countries may impose long terms of imprisonment and then suspend sentence or grant liberal parole; in other countries the courts may impose short sentences but require them to be served. Thus two aliens from different countries although convicted of similar offenses, in one case may be barred from entering the United States while in the other would be admitted; yet the alien barred might be as desirable as the other, in terms of American interests and welfare.

The Commission recommends that this provision be repealed.

Admissions of Crime.—Since 1917 the law has contained the authority to exclude aliens on the basis of an admission of crime involving moral turpitude. The act of 1952 goes further than the previous law and authorizes exclusion when an alien "admits acts constituting the essential elements of such crime." Thus an alien may now be barred for a supposed infraction of the criminal laws of another country for which he has not been convicted and which he does not admit committing. The finding should be based upon admissions of acts constituting "essential elements," whatever that means.

The statute places upon the administrative officers an obligation to determine whether a crime has been committed, a function customarily performed by the criminal courts. Furthermore, the issue may involve a crime under foreign law. This adjudication will be made by immigration or consular officers, who ordinarily have no legal training. They will not be bound by constitutional protections surrounding criminal proceedings. Immigration or consular officers will act as prosecutors, juries, and judges. The finding that an alien is guilty of committing a crime, for which he was never convicted, need not be made upon proof beyond a reasonable doubt or even upon a preponderance of the evidence.

Copies of foreign laws are not ordinarily available to immigration officials. In such cases the presumption is that the foreign law is the same as that prevailing in the United States. Thus, an alien may be excluded on the basis of events occurring in a foreign country which would not necessarily be a crime in that country. Indeed he may be deemed guilty of a crime even where the foreign criminal authorities have not seen fit to institute prosecution or perhaps even where the courts of such foreign country have acquitted the alien.

Immigration officials should not be given the function of balancing facts and deciding whether the facts establish guilt of crime under foreign laws. The provision of the 1952 act places an excessive bur-

den on administrative authorities and lends itself to abuses in exacting admissions. **The Commission recommends that the revisions made by the act of 1952 be eliminated and that an alien be subject to exclusion if he admits the commission of a crime or crimes involving moral turpitude. Conditions for waiver of inadmissibility should be the same for aliens who admit as for those convicted of a crime involving moral turpitude, except that the discretion to waive in cases of admission should not be limited to a single offense.**

False Representations in Applying for Entry

The act of 1952 includes a new provision which forever bars an alien who has sought to enter the United States through fraud or willful misrepresentation. This statute continues and expands a similar provision of the Displaced Persons Act which perpetually barred displaced persons who had made willful misrepresentations when applying for entry into the United States.

Of course fraud and willful misrepresentations of material information should be grounds for exclusion. The act of 1952, however, introduced the principle of perpetual exclusion. The act of 1952 makes no provision for those cases in which misrepresentations may be prompted by fear, or by an understandable effort to escape suffering and misery.

The Commission has been informed that refugees and displaced persons, who, facing the possibility of being forced back behind the iron curtain or of reprisals against their loved ones who still lived there, may have made false statements concerning their places of origin or former residence or other facts in their personal history. The report of the Congressional Conference Committee suggested that this provision be administered humanely and that its mandate

> . . . should not serve to exclude or deport certain bona fide refugees who in fear of being forcibly repatriated to their former homelands misrepresented their place of birth when applying for a visa and such misrepresentation did not have as its basis the desire to evade the quota provisions of the law or an investigation in the place of their former residence.

But the language of the law remains an open invitation to the perpetration of injustices.

In its present form the statute imposes a penalty not reasonably related to any sound national interest. If the fact concealed affects the alien's admissibility it would in itself be a ground for excluding him. Thus it would appear that the statute penalizes the concealment of facts which in themselves are not material to the alien's admissibility. In the present state of the world, with so many persons seeking to escape the oppressions and persecutions of Communist dictatorships, many have felt obliged—so the Commission is informed—to resort to misstatements concerning their antecedents and identity. It

does not seem reasonable to bar from the United States forever those who have made such misstatements. Even a former member of the Communist Party is not permanently barred under the Act of 1952. **The Commission recommends that the bar against the entry of those who have sought to enter on the basis of fraud or willful misrepresentation be retained but that the administrative authorities be given discretion to waive this ground of inadmissibility in meritorious cases.** This would alleviate the inflexible rigor of the present requirement and would permit taking into account the circumstances of the case, the length of time that has elapsed, and the present worth of the applicant for entry.

Economic Qualifications

Although the best evidence available to the Commission indicates that limited immigration does not increase or aggravate unemployment, particular prospective aliens may be undesirable in that they may become economic liabilities upon the community. Therefore the exclusion of aliens likely to become a public charge is a reasonable and necessary element of our immigration policy. However, the 1952 act permits this finding to be made on solely the basis of the opinion of the Attorney General or the consular officers. Apparently it was designed to substitute subjective opinion for demonstrated fact, and to lessen the opportunity for judicial inquiry. The statute allows much room for prejudice and for arbitrary action.

Present practice in applying the public charge provision relies principally on evidence of the wealth of the sponsor. On September 8, 1930, the President instructed the Department of State to adopt a strict interpretation of the public charge requirement. That course was said to have been dictated by the rise of unemployment in the United States. In complying with this directive the consular officers required strong proof of economic reliability on the part of applicants for entry. This policy has never been published in any regulation, but has continued to govern consular consideration of visa applications.

Because of the absence of any published regulation there is no uniformity in current consular practices. Each consul establishes his own requirements for evidence of financial reliability. In the absence of personal means in his own right, the prospective immigrant usually is required to submit to the consul the affidavit of at least one responsible person in the United States, stating that the immigrant will not become a public charge. The sponsor customarily is required also to attach to the affidavit supporting evidence of his financial responsibility, such as letters from his bank and his employer. Since the affidavit is not directly sanctioned by any statute or regulation, it is quite

doubtful whether it creates a legally enforceable obligation. So far as the Commission is aware no attempt has ever been made to bring suit against a person who has signed such a sponsoring affidavit, in cases where the immigrant actually became a public charge. Apparently the sponsoring affidavit has been regarded as useful for its moral persuasion and for establishing some tie with a responsible individual in the United States.

The Displaced Persons Act of 1948, as amended, developed a new approach to the question of protecting the United States against public charges. There, in practice, the public charge provision was regarded as complied with when an alien had an assurance of a job and home which would not displace another person. The testimony before the Commission indicated that this system worked well for the some 400,000 people admitted under that law.

The Commission believes that the law could be improved by adding affirmative criteria to guide administrative action. **The Commission recommends that the immigration law provide that no alien should be deemed likely to become a public charge who (1) has a firm assurance of employment in the United States, and (2) has assurances furnished on his behalf by a responsible individual or organization in the United States that the alien will not become a burden on the community.**

In making this suggestion the Commission expresses no judgment on the merit of two features of the act of 1952, owing to the fact that additional study of each subject is necessary.

These subjects are:

The contract-labor clause.—Since 1885, and until the 1952 act, the immigration law excluded contract laborers from entry for permanent residence, with certain exceptions and waiver provisions. This has always been regarded as one of the most important features of immigration restriction. The Displaced Persons Act waived this provision, in the light of the job and housing assurances. The 1952 law eliminates the contract labor provision, but authorizes exclusionary action upon a finding by the Secretary of Labor, in connection with aliens seeking to enter to obtain employment.

Concern was expressed by the Secretary of Labor that the elimination of the contract labor provision "may put us in a position of acting too late to prevent unwarranted and economically harmful entry of foreign workers." Similar uneasiness was expressed by the American Federation of Labor, whose spokesman urged the Commission to recommend restoration of the contract labor provision. Further study of the problem is desirable.

Affidavits of support.—Although the Commission believes that it is desirable and necessary to retain in the law a provision excluding aliens who are likely to become a public charge, time has not permitted

adequate study of the present method of administering this provision. Affidavits of support are the principal method used to determine whether an alien is likely to become a public charge. Whether this is a satisfactory device to implement the public charge requirement is a matter which should be given further study. However, the Commission believes that a satisfactory procedure should be adopted and codified in an appropriate regulation so that the administration may be uniform.

The Deportation of Aliens

The United States has the legal right to expel any alien at any time. In practice, every alien admitted in accordance with law is permitted to remain so long as he observes the conditions laid down by Congress. If he elects to become a citizen and successfully meets the required qualifications, he acquires a new status, with immunities, privileges, and rights not vested in an alien.

Here, as with other discussions of complaints against the immigration laws, it is well to remember that it is for Congress to establish the terms and conditions under which aliens are permitted to enter and remain in the United States. It is for Congress to determine what measures affecting aliens are best suited to meet the needs and promote the security of the Nation.

The position of the resident alien has been fruitful of much controversy through the years, in this and other countries. Most immigrants, except visitors and nonimmigrant laborers, enter the United States with the intention of remaining permanently and becoming citizens, and most of them do become citizens. Others remain indefinitely, some for life, but never renounce allegiance to their native countries, and never become citizens.

Congress could require all aliens, after a specified length of time, to become naturalized citizens or to leave the country. But Congress has not seen fit to enact such a requirement, and the Commission makes no such recommendation. Congress has chosen to allow aliens, legally admitted, to remain, and has even made provisions at times for permanent residence by those who are here illegally. It will be agreed, so long as the law permits aliens to remain in this country without time limit, that a moral, if not a legal, obligation exists to treat such people fairly. Especially where, as in this country, the alien is permitted to become a full-fledged member of the community in which he lives; to be employed, to own property, to marry and raise a family, to pay taxes, to serve in the armed forces, and otherwise to participate in all activities save those reserved for citizens, such as voting.

It is clear, therefore, that to aliens who have lived in the United States for many years, who have become integrated into its community

life, and whose ties to their mother country may have become remote and purely technical, a deportation order becomes the most severe and cruel penalty imaginable. It may be the equivalent of banishment or exile, and the Supreme Court has pointed out that deportation "may result in the loss of both property and life; of all that makes life worth living."

A few examples illustrate types of hardships resulting from our immigration laws with respect to deportation:

Case I:

The alien came to the United States in 1921, at the age of 16. Within 5 years after his entry he was involved in an automobile accident which resulted in the death of a child. He was convicted of manslaughter, served a sentence and was paroled. More than 5 years later he was ordered deported.

Case II:

The alien entered the United States with his grandparents in 1916, at the age of 13. In 1922 he married a native-born American and they had two sons. During World War II his sons served honorably in the Armed Forces of the United States. He was a good worker and family man and had never been arrested for any offense. In applying for naturalization in 1949 he voluntarily disclosed that he had been a member of the Communist Party for a few months in 1934 or 1935, had paid about 90 cents to that organization, had dropped out of it, and had had nothing to do with it since. His deportation was ordered.

Case III:

The alien entered the United States with his parents in 1913, at the age of 3 months. His three brothers and two sisters were born in the United States. In 1930, when 17 years of age, he was convicted of attempted larceny and in 1932 was convicted of robbery. He was ordered deported.

Case IV:

The alien came to the United States in 1913 and left in 1921, returning again in 1925 without a visa. For failing to disclose his absence from the United States between 1921 and 1925, he was convicted of perjury. He has been steadily employed in steel mills since 1933 and his conduct in other respects has not been questioned. His family is in the United States and his two sons are American citizens. Many years after his conviction for perjury his deportation was ordered.

These random examples could be multiplied indefinitely. In each of these instances courts publicly criticized the unreasonable harshness of the deportation statute, but they were powerless to mitigate its effect.

A substantial number of responsible organizations and individuals urged the Commission to recommend abolition of all deportation except where entry into the United States had been obtained by fraud. They pointed out that Australia grants complete immunity from deportation, in peacetime, to aliens with 3 years of residence. In other countries, such as Belgium and Brazil, certain groups of aliens are

exempt, expecially where they have tied their future to the country by residence or marriage.

The Commission believes that the suggested abolition of all deportation is much broader than necessary to accomplish its purpose. The suggestion really aims at two grievances:

(1) some of our present substantive legal requirements for deportation are unreasonable,

(2) some of our present procedures for administrative and judicial review of deportation orders, and for the exercise of discretionary relief, are inadequate.

The Commission believes that appropriate changes to remedy these wrongs, rather than the total abolition of deportation, is the desirable solution.

The first of these grievances, relating to the substantive provisions of law on deportation, is discussed in this chapter. The second is covered by the Commission's recommendation for the establishment of a statutory Board of Immigration and Visa Appeals (Chapter 10), and the recommendation for a statutory method of appealing from such Board's decisions to the courts (Chapter 11). These recommendations, and the additional recommendations made in this chapter, the Commission is convinced, would meet most of the complaints against the injustices of our present deportation system, and still retain necessary and adequate provisions for the protection of the United States.

The following table indicates the operation of the deportation process for the last 3 years for which figures are presently available.

Table 14.—*Deportations: 1949, 1950, and 1951*

Aliens deported from the United States by country or region to which deported—years ended June 30, 1949, 1950, and 1951

Country or region to which deported	1949	1950	1951
All countries	20,040	6,628	13,544
Europe	983	947	1,537
Asia	225	244	238
Canada	869	737	1,100
Mexico	16,903	3,319	8,928
West Indies	346	722	1,071
Central America	152	144	163
South America	149	160	269
Africa	39	47	46
Other countries	374	308	192

Table 14.—*Deportations: 1949, 1950, and 1951*—Continued

Aliens deported from the United States by cause—years ended June 30, 1949, 1950, and 1951

Cause	1949	1950	1951
All causes	20, 040	6, 628	13, 544
Criminals	1, 024	790	1, 036
Immoral classes	76	53	67
Violators of narcotic laws	70	55	62
Mental or physical defectives	82	53	45
Previously excluded or deported	3, 815	553	940
Remained longer than authorized	1, 379	1, 661	3, 289
Entered without proper documents	998	1, 352	5, 322
Abandoned status of admission	329	224	298
Entered without inspection or by false statements	12, 094	1, 734	2, 293
Likely to become public charges	20	38	14
Subversive or anarchistic	4	6	18
Miscellaneous	149	109	160

Source: Immigration and Naturalization Service, Annual Report for 1951, p. 61.

These figures do not include a large volume of illegal entrants, principally from Mexico, who depart voluntarily in lieu of deportation. The Commission has been informed that a substantial proportion of deportations are based on technical violations of the laws which prescribe the formal procedures that must be followed in entering the United States.

DEPORTATION AS AN ASPECT OF EXCLUSION

The deportation power complements the power to exclude. When an alien enters or remains in the United States in violation of immigration laws, the statute should enable him to be deported within a reasonable period.

However, certain revisions of existing law should be made:

Technical Violations

Our immigration statutes contain many complex prerequisites for admission to the United States. By the same token, an alien who has entered may be deported at any subsequent time if it is discovered that his entry was irregular in any particular. This may be true, under the present situation, even though the alien was entirely blameless.

Many of the immigration requirements are highly technical. Thus the law requires, for example, a correct determination of nationality for quota purposes, the issuance of particular types of entry documents, and the execution of appropriate agreements, by transporta-

tion lines which bring aliens to contiguous territory. In many such cases the alien himself has nothing to do with the actual compliance with the technicalities of the law. A failure to observe these or a multitude of other technical requirements makes the alien's entry irregular and therefore under present law renders him subject to expulsion.

The Commission believes that if the alien acts in good faith and is passed by immigration officers, there is no substantial reason why his status in the United States should continue to be insecure because of the error of the administrative officials. **The Commission recommends that when an alien is admitted for permanent residence in the United States by immigration officers he should not, in the absence of any fraud or other illegality for which he is to blame, be subject to deportation for technical defects in connection with his entry or status.**

Statute of Limitations

That it is wrong to keep the threat of punishment indefinitely over the head of one who breaks the law is a principle deeply rooted in the ancient traditions of our legal system. The law requires that criminal prosecutions, except for capital offenses, such as murder and treason, be brought within a fixed period of time or not at all. A similar dispensation governs the enforcement of civil liabilities.

Prosecutions for many serious crimes under Federal law generally are precluded unless brought within 3 years after the crimes were committed. The 3-year statute of limitations applies to bribery, counterfeiting, forgery, extortion, mail fraud, perjury, and robbery. Prosecutions for frauds against the United States generally are governed by a 6-year statute of limitations.

Under the Immigration Act of 1917, aliens who entered in violation of law were subject to deportation only if expulsion proceedings were commenced against them within 5 years after the improper entry. In connection with the grounds for deportation specified in the 1924 act, no statute of limitations applied. The act of 1952 eliminated the provision of the 1917 act, and therefore an alien now is subject to deportation at any time for even minor technical violations. The statement in the Congressional Conference Report that "the conferees have provided for a statute of limitations (as contained in the House version) in accord with humanitarian principles . . ." refers only to the exceedingly narrow provision that mental disease or economic distress after entry will justify deportation at any subsequent time only if it occurred within 5 years after entry. Under the act of 1952, deportation proceedings for any cause specified in the statute can be brought at any time after entry and are not subject to any statute of limitations.

Indeed, the 1952 statute retroactively rescinded the limited statute of limitations fixed by previous law. An alien who entered the United States 25 years ago, and whose entry involved a purely technical violation, enjoyed immunity from deportation for the last 20 years. Under the 1952 Act, he is now again subject to deportation. That Act threatens the security of many aliens and their families. Their immunities have been removed, and they may be torn out of their accustomed places in the communities in which they live, no matter how exemplary their conduct over a long period of years. Instead of being a "humanitarian" measure, as the Congressional Conferees on the Act of 1952 characterized it, the new act actually restores the threat of cruel and inhuman punishment for offenses long since forgiven.

This undue severity is underscored by the fact that although prosecutions for aggravated criminal violations of the immigration laws are subject to a 3-year statute of limitations, deportation proceedings for such violations—as well as for infractions which offend no criminal law—are governed by no statute of limitations, and may be brought—more than say 20 or 40 years after an alien entered the United States. No one has suggested any sound reason why the purpose of limitations—recognition of the unfairness involved in requiring a person to make a defense long after the event, when it is difficult or impossible to assemble witnesses and evidence—does not apply to immigration matters at least with equal force as to prosecutions for serious crimes.

It is said that the existence of a statute of limitations would encourage aliens to enter the United States in violation of the immigration laws. A person who enters or remains in the United States in violation of the immigration laws should be subject to deportation from the United States. But the consequences of such a violation should be enforced against him within a reasonable time. There is a fundamental public purpose which is served by statutes of limitations for crimes and in civil actions. This is just as important an objective of law enforcement as the avoidance of violation of law.

A statute of limitations on deportations has been part of our laws for 65 years. The 5-year period of limitations was in our immigration laws since 1917, and until removed by the Act of 1952. The Commission believes that a period of 10 years within which proceedings must be brought after the commission of an act for which deportation is provided is ample for the Government to ascertain that a violation had occurred and to take action against the offender. **The Commission recommends that the immigration statute should provide that a deportation proceeding may not be commenced against any alien more than 10 years after the violation occurred.** Deportation for reasons of security is discussed in Chapter 15.

Residents Who Have Been Temporarily Absent Abroad—The Reentry Doctrine

Chapter 12 discusses the reentry doctrine, which holds that the excluding provisions of the immigration laws apply fully to an alien resident of the United States who returns from a temporary visit abroad, however brief. The unreasonableness of this rule is illustrated most graphically in deportation cases.

The facts often come to light in naturalization proceedings. Questioning sometimes reveals that the applicant once committed a minor offense or suffered a disability from which he has completely recovered. Although these circumstances do not in themselves make the alien deportable, if he ever went on a trip to Havana, Montreal, or Tia Juana, for example, he becomes subject to deportation as an alien who was excludable when he reentered the United States. Legally, every return of an alien to the United States is regarded as if he were coming to the United States for the first time.

The impact of the reentry doctrine on resident aliens of the United States is illustrated by the following two cases, which are typical of hundreds of others:

Case I:

The alien was lawfully admitted to the United States for permanent residence in 1932. In January 1939, on a plea of not guilty, she was convicted of a theft charge. She was fined $1 and costs. This conviction did not make her deportable. In December 1939 she reentered the United States after a short visit to Mexico. An alien who committed the crime of theft before entering the United States is inadmissible to the United States. By departing from the United States and then reentering, the alien was herself in the position of a person who committed theft before entry and was deportable. In 1940 she was arrested in deportation proceedings on the ground that she had committed theft, a crime involving moral turpitude prior to her last entry in December 1939. The alien's husband and her three native-born children reside in the United States with her. She had no other police record. She was found deportable but the Attorney General ordered cancellation of proceedings under discretionary authority.

Case II:

The alien, a native of Yugoslavia, was 55 years old. He first came to the United States in 1909, but there was no record of his entry. Through administrative process his entry was registered as 1939 and his status as a lawfully resident alien confirmed. In 1924, he had been convicted of larceny and placed on a year's probation. This matter was considered when his status was adjusted to that of a lawfully permanent resident alien and found not to be a bar to that action. In 1939 he left the United States for the purpose of settling an estate in Yugoslavia. He was readmitted in the same year. In the same year, a warrant of arrest was issued charging him with being deportable as one convicted of a crime prior to entry. The alien was found deportable but he was permitted to remain in the United States under discretionary authority.

In the past, the law has permitted relief in such cases through the so-called Seventh Proviso, which authorizes the administrative authorities to waive grounds of inadmissibility (and thus of deportability) for aliens who have 7 years' residence in the United States. Relief under the Seventh Proviso was granted to the majority of qualified aliens who applied for it. Although it accomplished a desirable purpose, this process has generally caused needless trouble and expense to the Government and to the alien. **The Commission recommends that the reentry of an alien returning to a lawful permanent residence in the United States following a brief absence shall not be regarded as a new entry under the immigration laws. Such brief absence should not be a factor in the determination as to whether he is subject to deportation.**

The reentry doctrine produces many shocking results. Until a contrary opinion was obtained from the courts, the administrative authorities ruled that where an alien unknowingly passed over Canadian territory on a train trip between two points in the United States he had left the country and made a new entry when the train again reached the United States. In another case the same situation occurred when a sailor was taken to a nearby foreign port by a ship which rescued him as a survivor of a torpedoed American vessel during World War II. The Supreme Court said these interpretations were capricious and that the right to reside in the United States should not become "the sport of chance." The Act of 1952 wrote into law provisions which, except for aliens who are lawful permanent residents, will produce the results denounced by the Supreme Court.

The Commission recommends that the law in effect prior to 1952 be restored so that a return following an involuntary absence, even in the case of an alien not lawfully admitted for permanent residence, should not be deemed an entry under the immigration laws.

DEPORTATION AS PUNISHMENT

In 1910, a statute was passed sanctioning expulsion at any time of an alien found identified with the business of prostitution. Eventually the concept of deportation as punishment for misconduct spread rapidly; today it is predominant in the deportation statute. In 1917, deportation for criminal violations in the United States was authorized. The deportation of subversives was the subject of legislation in 1918 and 1920, as well as of the Alien Registration Act of 1940 and the Internal Security Act of 1950. The Act of 1952 codified and considerably enlarged the grounds for deportation as punishment for misconduct in the United States.

Difference in Treatment of Aliens and Citizens

If a citizen violates a law of the United States he may be imprisoned for a specific period of time. If an alien violates the identical law he likewise may be imprisoned, but in addition he may be banished from the United States. Judge Augustus Hand has observed that for an alien, "however serious his crimes, deportation is to him exile, a dreadful punishment, abandoned by the common consent of all civilized people. Such, indeed, it would be to anyone." **Subject to conditions discussed elsewhere, there does not seem to be any sound basis, especially after the lapse of many years, for adding deportation as punishment for an alien to the penalties provided by the criminal laws.**

Wrongdoers Produced by Our Society

Alien children of tender years come to the United States with their parents, often as babes in arms. In some instances they grow to maturity here and then turn out badly. Because of the punitive provisions in our immigration statutes the wrongdoing of such individuals makes them subject to deportation, in addition to any other penalties the criminal laws may impose.

The following are illustrative cases, among many that could be cited:

Case I:

The alien, a native of Canada, was brought to the United States as an infant in 1913. In 1931, he was convicted of breaking and entering and stealing an automobile. He was placed on probation for 2 years. About a month later, he committed a robbery and was sentenced to a reformatory for 7 years. He was found deportable on the ground that he had been sentenced more than once for crimes involving moral turpitude. He was ordered deported in 1941. He left behind him a United States citizen wife and two citizen children, all of whom were dependent upon him.

Case II:

The alien, a native of Eire, was brought to the United States by his parents in 1909, at the age of 5 years. His entry was lawful and he has since lived in the United States continuously. Until 1935, he had believed that he had acquired citizenship through the naturalization of his father. In that year he learned he was an alien. He is single. He has no relatives or friends in Eire. His mother, two brothers and a sister reside in the United States. In 1922, when about 18 years of age, he was convicted and sentenced on a charge of larceny of property of the value of $152. In 1927, he was convicted of larceny of property of the value of $200, and larceny of property of the value of $83. He served a sentence of 4 years for these convictions. In 1935 he was sentenced to serve 2 years for stealing mail matter. Since then he has had a good record. In 1942 deportation proceedings were brought on the ground that he had been sentenced to imprisonment more than once for a term of 1 year or more for the commission, subsequent to entry, of a crime involving moral turpitude. His deportation to Eire was ordered.

Case III:

The alien came to the United States in 1913, when he was 3 months old, and has lived here since that time. In 1930, when 17 years of age, he was convicted of attempted larceny, and in 1932 was convicted of robbery. His three brothers and two sisters were born in the United States. An order for deportation was entered and was challenged in court in 1935. The court observed: "His deportation will be tantamount to exile from a country in which he has always lived to a country in which he will be a stranger. These are circumstances, however, which cannot be considered by this court."

Each of these aliens is the product of our society. Their formative years were spent in the United States, which is the only home they have ever known. The countries of their origin which they left—in two cases during infancy, in another, at the age of 5 years—certainly are not responsible for their criminal ways. Their criminal careers are American, not foreign, products. If such a person offends against our laws, he should be punished in the same manner as other citizens and residents of the United States and should not be subject to banishment from this country. We cannot expect other countries to take, and continue to take, undesirable people who have no real tie with them.

The Commission recommends that no alien shall be subject to deportation if he was lawfully admitted to the United States for permanent residence before reaching the age of 16 years, or if he was lawfully admitted for permanent residence and has resided in the United States for 20 years.

Excessive Penalties

Some offenses, for which deportation may be ordered under the law, do not warrant such an excessive punishment. Deportation may result from trivial offenses; for misbehavior many years after entry into the United States, without any limitation of time; and for wrongful conduct of the remote past, without any consideration as to whether there has been reformation or expiation.

Retroactive Penalties

The Act of 1952 retroactively makes aliens deportable for specified causes, involving conduct that violated no law and warranted no punishment when it was committed. For example, the Act of 1952 subjects to deportation an alien who entered the United States without proper inspection in 1918, in whose case the statute of limitations 20 years ago forbade deportation and who also could have been naturalized before December 24, 1952, after his original entry had been legalized by an administrative registry process. An alien may engage in an activity which is perfectly lawful today and yet may be deported 20 years hence because a statute passed in 1970 may declare the act he performs today to be criminal.

Witnesses in the Commission's hearings objected to this retroactive provision as a form of *ex post facto* law, forbidden by the Constitution of the United States. The Supreme Court has decided that deportation is not criminal punishment and that the Constitutional prohibition against *ex post facto* laws does not invalidate retroactive deportation requirements. Nevertheless, such retroactivity has no place in the laws of the United States.

The Commission recommends that the blanket retroactive provision in section 241 (d) of the 1952 act be repealed.

SPECIFIC CATEGORIES

Subversives

Deportation for reasons of security is discussed in Chapter 15.

Violators of Criminal Statutes

The provisions dealing with violators of the criminal laws are among the principal punitive features of the deportation statutes.

Before 1917 there was no statute authorizing deportation for conviction of crime in the United States. As a result of recommendations made by the Immigration Commission in 1911, the act of 1917 authorized expulsion following convictions under certain conditions for crimes involving moral turpitude. The act of 1952 increased the application of these penalties.

Criminal Offenders Before Entry.—The Commission believes that the laws providing for the deportation of aliens who enter the United States in violation of the provisions excluding criminals should relate to original entries, and not to reentries after brief absences; and, further, that deportation for such offenses should be subject to limitations of 10 years, as discussed elsewhere.

Conviction of One Crime After Entry.—The Immigration Act of 1917 provided for the deportation of aliens convicted of a crime involving moral turpitude committed within 5 years after entry, where such conviction was followed by a sentence to imprisonment for 1 year or more. However, if the court suspended sentence on the belief that the crime was committed under circumstances which did not warrant imprisonment, the alien was not subject to deportation. Under the act of 1952, however, such an alien would be deportable.

A recommendation to continue the provisions of the 1917 act was made in the report of the Senate Judiciary Committee; this recommendation was not adopted. **The Commission recommends restoration of the provision of the Act of 1917.**

Unlike the previous law, the Act of 1952 makes confinement in a corrective institution a ground for deportation. So, where a person sentenced is a minor who is confined principally for educational and

corrective purposes, he becomes subject to deportation. **A person under 21 who commits a criminal offense, and who is placed upon probation, parole, or in a correctional institution primarily for corrective and educational purposes, should not be subject to deportation solely for that reason.**

The Commission recommends that an alien convicted for one crime involving moral turpitude should be subject to deportation only if the offense was committed within 5 years after the alien's original entry into the United States for permanent residence, and resulted in a sentence to a penal institution for one year or more. Although the designation of crimes involving moral turpitude is not completely satisfactory, the Commission believes, as previously stated in Chapter 12, that this descriptive term has not caused too much difficulty and that it should be retained.

Where there has been a conviction for a crime involving moral turpitude, deportation does not result if there has been a pardon or if the court recommends against deportation. However, the act of 1952 lists an additional number of crimes for which deportation may be ordered without regard to whether they involve moral turpitude. In connection with such crimes, no provision is made for clemency in worthy cases—as is done with crimes involving moral turpitude—as a result of pardons or court recommendations against deportation. In one instance, involving activities by aliens in aiding other aliens to enter unlawfully, no court conviction is necessary and the administrative officers are required to determine whether a crime has been committed.

The Commission recommends that wherever the statute requires deportation for criminal offenses, deportation shall not be ordered where there has been a pardon or a recommendation by the court against deportation. The Commission recommends further that even where an alien is subject to deportation because of a conviction and sentence for one offense, deportation should be ordered only if the head of the agency administering the immigration law also finds the alien to be an undesirable resident of the United States.

Conviction For More Than One Crime.—The act of 1917 required deportation, at any time after entry, of an alien convicted and sentenced more than once for crimes involving moral turpitude. This provision was intended to reach confirmed criminals. It applied to aliens who resided in the United States for five or more years. Under that act, as construed by the Supreme Court, such an alien was deportable if at any time after entry he committed a crime involving moral turpitude for which he was sentenced to imprisonment and confined, and then after serving the first sentence committed another crime

involving moral turpitude for which he was convicted, sentenced and confined.

The act of 1952 changes the prior law and eliminates: (1) the necessity for imprisonment, and (2) the necessity that the second conviction take place after the alien has been subjected to punishment. Thus, an alien who has been found guilty under an indictment containing several counts arising out of one transaction is now subject to deportation even though the offense may have occurred many years after his entry into the United States and the court did not regard it as sufficiently serious to require a prison sentence.

The Commission recommends that the provisions authorizing deportation for two or more crimes involving moral turpitude be retained substantially as in effect prior to the act of 1952; provided that deportation in such cases shall be directed only if the head of the agency administering the immigration law finds that the alien is an undesirable resident of the United States; and provided that no alien should be subject to deportation who entered the United States for permanent residence before reaching the age of 16 years, or who was lawfully admitted for permanent residence and has resided in the United States for 20 years.

Violation of Registration Requirements

A new provision, originating in the act of 1952, makes an alien subject to deportation for failure to report his present address, as required by law, but permits relief from deportation upon a showing that the omission was reasonably excusable or was not willful. Conviction of the offense is not required.

The act also requires deportation upon conviction for other infractions of the registration statute, regardless of whether the court imposed sentence. No provision is made for alleviation in the case of a pardon or a court recommendation against deportation.

Convictions for infractions of the registration provisions carry substantial penalties. Sentences which may be imposed as a result of conviction should be an adequate deterrent without the additional penalty of deportation. Such additional punishment is entirely out of proportion to the nature of the offense.

These provisions can have little effect upon aliens unlawfully in the United States, as such aliens are subject to deportation on other grounds. Their only effect is to impair the status of lawfully resident aliens.

The Commission recommends that the provisions authorizing deportation for violations of the alien registration laws be eliminated as unnecessary and excessively severe.

Narcotic Drug Addicts

The act of 1952 requires, for the first time, deportation of any alien who is or at any previous time has been a narcotic drug addict. Previous legislation providing for the deportation of those convicted of violating the narcotic law, had exempted from expulsion narcotic addicts who were not dealers in or peddlers of narcotic drugs. The statute makes no distinction between aliens who may be incurable, who may be curable, or who may have been fully cured.

The 1952 act makes no allowance for length of residence in the United States before addiction occurred. Nor does it make any difference whether the addicts or former addicts have violated any law or have become a problem to the community. There was the case of a much-decorated hero of World War II who became a drug addict as a result of drugs prescribed to alleviate pain resulting from his wounds. If such a person were an alien he would be subject to deportation.

It is unjust to apply the same yardstick to persons engaged in drug traffic and to their unfortunate victims. **The Commission recommends that applicable provisions for deportation be related solely to those engaged in the unlawful traffic in narcotic drugs as provided by law prior to the 1952 act.**

Aliens Who Become a Charge on the Community

Under the law in effect prior to the act of 1952 an alien who became a public charge within 5 years after entry was subject to deportation, unless he could establish that the cause arose after arrival in the United States. Where such a cause occurred within the 5-year period, the law placed the burden on the alien to establish that his becoming a public charge was not the result of a condition which existed prior to entry.

The 1952 law continues "public charge" as a ground of deportability but makes the determination dependent on the opinion of the immigration officer. The act permits a finding of deportability for public charge to be based not on facts but on opinion, whereas other grounds of deportability must be supported by substantial and probative evidence. The legislative history of the 1952 act does not indicate that there was any administrative difficulty in enforcement of the prior law, nor does it disclose the reason for making the "public charge" finding dependent on the mere opinion of the administrative officials. **The Commission recommends that a finding of deportability on the ground that the alien became a public charge within 5 years after entry for causes not affirmatively shown to have arisen subsequent to arrival in the United States be based upon fact and not upon opinion.**

Relief in Deportation Cases

Deportation orders frequently affect many people in addition to those against whom action is taken. The alien's spouse and children, often citizens, are linked with the destiny of the deportee. The hardships caused in many cases by such on order have prompted measures for discretionary relief, some by statute and some by administrative regulation or practice.

The provisions for relief were well defined prior to the Immigration and Nationality Act of 1952. Although in many aspects they were not entirely adequate, in general they appeared to be reasonably satisfactory. The act of 1952 restricted, or eliminated, practically every provision for discretionary relief.

General deportation statutes cannot deal justly in every situation and the Commission believes that a sound immigration law should continue to authorize the alleviation of excessive hardships in individual worthy cases.

Three principal discretionary remedies existed prior to the act of 1952: (1) voluntary departure, (2) preexamination, and (3) suspension of deportation. In addition to these administrative remedies, there was a fourth one, of a legislative character, the growing practice of introducing in Congress private relief bills to forestall deportation.

VOLUNTARY DEPARTURE

In many instances a person may be deportable for reasons which impute no personal blame. For instance, a temporary visitor may be prevented from, or delayed in, leaving the United States by causes beyond his control; a seaman discharged at an American port may be unable to find a new ship within the period of shore leave allotted to him; a student may be financially or physically unable to continue his studies; a diplomatic official may resign because his new home government is unfriendly to him and us—he may even be a defector from communism. In recent years many persons in a temporary status in the United States have been unable to return to their home countries which have fallen under Communist control. In other instances, personal fault is slight or difficult to assess. Some aliens who have come into the country for pleasure or business may have wittingly or un-

wittingly failed to comply with the laws pertaining to entry. In all such cases the aliens are subject to deportation.

Until 1940 there was no specific statutory authorization to do anything but to deport such people. However, deportation involves a personal stigma and a person deported from the United States commits a crime if he reenters without the specific permission of the Attorney General. To avoid such situations, to the extent desirable, and to save the Government the trouble and expense of deportation, the discretionary remedy of voluntary departure was devised by administrative officials.

The discretionary remedy of voluntary departure is merely permission to the deportable alien to leave the United States within an allotted time and without a deportation order. Voluntary departure serves the needs of the Government and of the alien in meritorious cases.

The Alien Registration Act of 1940 required an alien to prove that he was a person of good moral character for 5 years before he could be allowed voluntary departure; it precluded the granting of such relief to persons deportable for various violations of law relating to subversives, criminals, prostitutes, and narcotics. Although the act of 1952 adopts the rule of the 1940 act, it gives unrestricted administrative authority to grant voluntary departure before deportation proceedings have been started. However, the act of 1952 in effect limits the opportunities for granting this relief through an unreal definition of good moral character, which is discussed more fully in relation to suspension of deportation, and to deportation.

The expedient of voluntary departure has been widely used. The large volume of illegal entries of Mexican agricultural laborers across the southern border of the United States has created a need for flexibility. It would be difficult and expensive to ascertain whether each such illegal entrant possessed particular qualifications before he could be permitted to depart from the United States.

Deportation hearings are expensive for the Government and burdensome upon the alien. Moreover, the expulsion of the alien entails large costs, which are avoided if the alien is permitted to depart at his own expense.

The Commission recommends that administrative officials should have authority to permit aliens who are illegally in the United States, to depart at their own expense. The conditions and circumstances under which that privilege is granted should be left to the sound discretion of the administrative officers, without the unnecessary limitations now found in the statute.

Preexamination

In many instances, persons in a temporary or irregular status desire to establish permanent residence and are otherwise eligible to do so. Since under the immigration law consuls are not authorized to issue immigration visas in the United States an alien desiring adjustment of status to permanent residence was required to return to his country of origin for such visa. This was an expensive procedure which served no useful purpose either for the alien or for the United States.

To meet this situation the administrative authorities in 1935 devised a process known as preexamination. An arrangement was made with Canada under which aliens who had been authorized such preexamination in the United States could enter Canada to obtain an immigration visa at any American consulate in that country for the purpose of reentering the United States immediately as an immigrant. The United States guaranteed to Canada that it would permit the immediate reentry of such aliens.

Preexamination consisted merely in examining a prospective immigrant in the United States to determine his admissibility. Under this procedure, an alien took a short trip to Canada instead of a long and expensive trip to his home country.

Preexamination depended entirely on administrative regulations and practices. It was often coupled with an authorization for voluntary departure. Under the established procedure an alien was not allowed preexamination unless he demonstrated to the immigration authorities that an immigration visa was immediately available, which means that for a quota immigrant a quota number must be currently available and that he was otherwise admissible under the immigration laws. An alien granted preexamination could complete all his preliminary arrangements by mail. Usually, after receiving an appointment from a United States consul in Canada he could enter Canada, apply for and secure his visa, and reenter without being outside the United States for more than a day or two.

Preexamination did not eliminate the usual checks and procedures in issuing visas. No persuasive evidence seems to have been presented to justify a contrary view. In any event, any loopholes or other difficulties could have been remedied by the administrative authorities.

The following are typical cases in which the privilege of preexamination was authorized:

Case I:

The alien, a Norwegian, was admitted in transit in 1942 with other survivors of a torpedoed vessel on which he had been chief engineer. Because of unfitness

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for sea duty, he remained ashore. He became the president of a ship cleaning company which performed war work. He was eligible to first priority for a nonpreference quota visa because of his services at sea during the early days of the war. He was allowed voluntary departure and preexamination so that he could go to Canada and apply for his visa instead of returning to Norway.

Case II:

The alien became a citizen in 1926. He returned to Italy in 1930 and resided there until 1946, at which time he reentered the United States as a citizen. Unknown to him, his naturalization had been cancelled in 1935. It was concluded that he had obtained an American passport and reentered the United States in good faith. Under the circumstances, the application was found exceptionally meritorious and preexamination was authorized so that he could enter Canada and obtain his visa instead of returning to Italy to obtain it.

Case III:

The alien, a 29-year-old native and citizen of the Republic of the Philippines, last entered the United States as a seaman on January 5, 1947. He intended to remain permanently, but had none of the necessary immigration documents. He had enlisted in the Army of the United States in Australia in 1942 and served until his honorable discharge in 1945. He is the holder of five decorations. His good moral character for a 5-year period was established by the record. He was eligible for the issuance of a first priority nonpreference quota visa. By reason of his war service his case was found to be exceptionally meritorious. He was granted the privilege of voluntary departure and preexamination so that he could go to Canada to apply for his visa instead of returning to the Philippines.

During 1951, out of a total of 1,945 new applications for preexamination which were filed by aliens not subject to deportation proceedings, 1,201 were approved and 156 denied. Thirty preexaminations were revoked.

Effect of 1952 Act.—Although the act of 1952 did not in express terms abolish the practice of preexamination, the Congressional Conference Committee stated that it contained a prohibition against preexamination. The regulations issued by the Immigration and Naturalization Service adopt the conclusion suggested by the conferees, and in effect abolish preexamination. The theory of this action, as explained in the Conference Report, was "that the preexamination system was cumbersome, obsolete, and, as practiced, contained certain loopholes for the admission for permanent residence of undesirable aliens."

The preexamination procedure was generally believed to be reasonably adequate. It seems somewhat strange that criticism of the procedure of preexamination should have been based, as the Commission is informed, on opinions expressed by the administrative officers who devised and operated it, and who had ample authority to plug any loopholes in it, and otherwise make it conform to proper practice.

Congress, in eliminating preexamination, did not supply a satisfactory substitute. It introduced a new procedure called Adjustment of Status of Nonimmigrant. In one important respect this seems an im-

provement over former practices, since it allows adjustment of status in the United States without requiring a trip to Canada. But the act of 1952 surrounds the new procedure with conditions and limitations which apparently permit only a few to qualify and which therefore may be self-defeating.

For example, this new adjustment of status may be granted only to an alien lawfully admitted as a nonimmigrant or temporary visitor and who is continuing to maintain that status. By denying adjustment to otherwise admissible aliens whose present status is irregular, for one or another reason, the new procedure loses one of the major benefits in the old system of preexamination.

The only avenue provided for the great number who cannot meet such rigidly limited conditions is suspension of deportation. But this requires a finding that they are deportable, and the procedure is slow, cumbersome, and expensive. In fact, in most such cases arising under the 1952 act an alien who resides in the United States and who would be qualified immediately to immigrate to the United States if he lived overseas, must again make the long and expensive trip to his homeland in order to obtain a visa and return.

The Commission recommends that an alien in the United States in a temporary or irregular status be given the privilege of having his status adjusted to that of a lawful permanent resident, without being required to leave the United States, if he is currently qualified to enter the United States under the immigration laws. This will entail mental and physical examination, security clearance, and satisfaction of all qualitative requirements, as well as the present availability of a quota number, when it is required. The presence of such an alien in the United States should not give him any preference or advantage over prospective immigrants in foreign countries.

Suspension of Deportation

Congress has provided that hardships created by the inflexible provisions for deportation may be avoided through a procedure known as suspension of deportation.

Most of the aliens who become legal residents follow the usual course of obtaining immigration visas abroad. For example, in the fiscal year 1951, 156,547 quota immigrants were admitted from abroad; only 1,506 aliens became legal residents through suspension of deportation, and charges were made against the proper quotas. During 1950, the respective figures were 197,460 and 833. After thorough consideration of the problem during several sessions of Congress beginning in 1934, the discretionary power to suspend deportation was finally enacted in the Alien Registration Act of 1940. The Attorney General was authorized to suspend deportation of a deportable alien

who had proved good moral character for the past 5 years, if deportation would result in serious economic detriment to the alien's citizen or legally resident spouse, parent, or child.

This consideration was denied to aliens deportable as subversives, criminals, prostitutes, the mentally and physically deficient, and aliens racially ineligible for naturalization. In each instance where deportation was suspended, a quota number was deducted from the current quota of the alien's home country. The Alien Registration Act of 1940 required that each case be reported to Congress, and suspension of deportation became final unless, by concurrent resolution, Congress disapproved.

Amendments in 1948 enlarged the suspension authority, but also introduced some restrictive features. A deportable alien who had resided here for 7 years was made eligible, even though he did not have the specified family ties; but this provision was limited to aliens who were in the United States in 1948. The amendments also removed the previous bar on aliens racially ineligible for citizenship.

But instead of the previous requirement that suspensions of deportation were final unless the Congress passed a concurrent disapproving resolution, the act of 1948 made them final only if Congress passed a concurrent resolution affirmatively approving them.

Effect of Act of 1952.—The act of 1952 severely limits the authority to grant suspensions of deportation, although it makes such relief available to groups previously ineligible for it.

In place of the relatively simple previous procedure, the act of 1952 substitutes an involved statutory scheme. In order to be eligible for suspension of deportation prior to the act of 1952, an alien had to show serious economic detriment to specified close relatives, unless he had resided here for 7 years. The act of 1952 requires that the alien must be "a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship" to the alien or to the specified relatives. The Senate Committee Report makes it clear that the remedy—

> should be available only in the very limited category of cases in which the deportation of the alien would be unconscionable. Hardship or even unusual hardship to the alien or to his spouse, parent or child is not sufficient to justify suspension of deportation.

In commenting on this new language and the committee's explanation, one distinguished witness testifying at the Commission's hearing said: "Rarely has there been a balder statement of a national purpose to be cruel."

Even the technical experts have difficulty arriving at an understanding of the provisions of the act of 1952 relating to suspension of deportation. The act establishes five classes of aliens eligible for

suspension of deportation, and prescribes for each such class a "continuous period" of physical presence in the United States, up to the date of application for suspension. The shortest period for which the alien must have been continuously "physically present" is 5 years, the longest is 10 years. The 10-year period indiscriminately covers subversives, criminals and prostitutes, on the one hand, and persons who merely violated purely technical provisions of the law on the other hand. Prior to the 1952 act, an alien who supported his American citizen wife could have obtained suspension of deportation no matter how short his stay in this country had been. The new act requires 5, 7 or 10 years of continuous "physical presence."

The alien must prove that he has been a person of good moral character during the entire period. The new law contains a highly restrictive definition of good moral character, creating many uncertainties. For example, the Immigration and Naturalization Service testified at the Commission's hearings that the crime of adultery was inadequately defined in the act of 1952.

Except for persons who came to the United States before June 27, 1950, an alien may not be granted suspension if a final order of deportation has been entered in his case. This subjects the alien to the arbitrary requirement that the date of an order of deportation controls his right to be considered for suspension of deportation.

Often, an alien who does not qualify for suspension of deportation under the Act of 1952 will be able to return almost at once as a permanent legal resident of this country. Under other provisions of the law, he may be entitled to a preferred immigration status for visa consideration, by reason of his citizen or legally resident wife or children. In other cases, for lack of the remedy of suspension, the alien may suffer the disruption of his family.

Many witnesses criticized the restrictions on the authority to deal with hardships imposed by the Act of 1952 as being repugnant to American principles of justice and humanity. Among them was the late Philip Murray, representing the Congress of Industrial Organizations (CIO). who stated:

> * * * that the authorities administering the law should have sufficient discretion to enable them to take humanitarian considerations into account. These resident aliens about whom we are talking may have lived in this country for years, may have married spouses who are American citizens, and may have children who are American citizens. Deportation of the alien may mean intolerable hardship for the family. The officials enforcing the laws should therefore have authority to look at the whole picture and decide whether, in the light of all the circumstances, the national interest will or will not be served by deportation of an individual. The laws should be administered in a liberal and humanitarian, rather than a technical and punitive, spirit.

The Commission believes that the statutory requirement for Congressional approval of suspension of deportation actions is contrary

to our fundamental constitutional doctrine of separation of legislative, executive, and judicial powers. The basic concept of our American system is that the Congress makes the laws, the Executive administers them, and the Judiciary interprets them. Our form of Government is built upon a tripartite system of checks-and-balances intended to assure that no one branch of Government encroach upon any of the others. The failure of the Congress to follow the constitutional pattern is obstructive of good government and destructive of fundamental principles. In immigration matters, in particular, it frustrates proper administration and puts a premium on extraneous considerations in the determination of legal rights. The exercise of discretion according to standards fixed by Congress is peculiarly an executive function. The legislature is not equipped, and not intended to be equipped, to handle the details of administration. The provision for legislative approval of determinations in individual cases requires an administrative agency within the legislature itself, attempting to redo what the administrative agency has already done, but without the safeguards which the Congress and the courts have insisted shall surround administrative action. This is wrong in principle and bad in practice.

It is no more the function of Congress to pass upon individual cases involving suspension of deportation than it would be to pass upon the issuance of individual visas, or for that matter upon the custom inspection of an individual alien's baggage.

One searches in vain for a comparable example of intermingling of executive and legislative authority. The determination of the existence and extent of tremendous human and property rights is confided to the discretion of executive officials. For example, the Selective Service System periodically drafts tens of thousands of the youth of America into the Armed Forces, including aliens, without submitting all the individual cases to Congress for its approval. The Atomic Energy Commission has virtually unlimited discretion in effecting a crucial program affecting our survival. The Interior Department has large discretion in regulating the affairs of Indians. The Veterans' Administration functions in many fields affecting veterans. The Mutual Security Agency and the Reconstruction Finance Corporation are empowered to allocate billions of dollars. The Interstate Commerce Commission, Federal Communications Commission, Civil Aeronautics Board, and Federal Power Commission have power to grant invaluable franchises and to fix rates affecting millions of people. And even the immigration laws themselves grant broad discretion in some respects to administrative officers to enforce restrictive requirements. Yet the Attorney General cannot suspend the deportation of one alien without reporting the case to Congress and obtaining its approval.

The Commission recommends that any alien in the United States in irregular status who does not qualify for adjustment of status, as above described, may be granted suspension of deportation in the discretion of the administrative officer upon a showing of good moral character for 5 years, and (a) serious economic detriment to the alien's citizen or legally resident spouse, parent, or minor child, or (b) residence in the United States for 7 years.

These recommendations would restore the provisions for suspension of deportation substantially to their position prior to the Act of 1952. The Act of 1952 authorizes suspension of deportation for former subversives, criminals, and other groups previously denied this remedy. This authority should be continued subject to a limitation that such aliens must have resided in the United States for 10 years.

The Commission recommends that administrative officials be given authority to exercise reasonable discretion to suspend deportation, without the necessity for Congressional action in individual cases.

Special Legislation

Another consequence of the inflexibility of the immigration laws is the enactment by Congress of private relief bills, exempting named individuals from particular restrictive provisions. Until the past decade or so, private relief bills in immigration matters were virtually unknown. But during recent years Congress has been deluged with an increasing flood of such bills. Thus, while only 163 private bills in immigration and nationality cases were introduced in the Seventy-eighth Congress, there were 429 in the Seventy-ninth Congress, 1,141 in the Eightieth Congress, 2,811 in the Eighty-first Congress, and 3,669 in the Eighty-second Congress.

The number of private bills has been a heavy burden on Congress. Moreover, it has added substantially to the problems of administration. In most instances the introduction of such a bill has been followed by a request from a committee of Congress to the Department of Justice for an investigation of the facts and a report. Under arrangements between the Department of Justice and committees of Congress, deportation frequently has been withheld while a private bill is pending. The result is that the private bill device has afforded an opportunity to delay or defeat deportation, and has overburdened Congress and the administrative authorities.

The sponsors of the Act of 1952 have stated that its enactment would substantially diminish the volume of such bills. But others predict a different result, in view of the many oppressive features of that legislation, including the severe limitations on the discretionary relief of adjustment of status and suspension of deportation.

The increase in the number of private immigration bills introduced into, and passed, by the Congress is itself evidence that something is wrong with our immigration laws. **The Commission believes that the unnecessary hardships which private bills seek to correct would better and more fairly be corrected by enactment of a reasonable immigration law, including adequate discretionary authority vested in responsible administrative officials.**

Security Protections

Since the earliest days of the Republic, Congress has expressed concern over the activities of subversive aliens in our midst. The Alien Act of 1798 authorized the President to order the departure of any alien whom he deemed dangerous to the United States. The Alien Enemy Act of 1798, passed 2 weeks later, permitted the apprehension, restraint, and removal of alien enemies, if deemed necessary for the public safety. The first law was so unpopular and violated such fundamental American principles that it was allowed to expire after 2 years. The second, limited in application to time of war or threatened invasion, is still in effect.

It was not, however, until 1903 that the law barred the entry of aliens who were regarded as inimical to the safety and security of the country. By a 1903 statute, anarchists and those who believed in or advocated the forcible overthrow of the Government of the United States, or of all forms of Government, or the assassination of public officials, were denied admission to the United States. These provisions were continued and strengthened in 1907 and 1917. The Anarchist Act of 1918, as amended in 1920, enlarged the description of aliens classed as subversive. It barred from the United States aliens who write, publish or cause to be written or published, or circulate, distribute or display, or possess for such purposes, any written or printed matter advising, advocating, or teaching opposition to organized forms of Government, or the overthrow by force or violence of Government, or the killing of officers generally, or unlawful damage to or destruction of property, or sabotage.

The Supreme Court, in 1939, had occasion to interpret the laws which authorize the exclusion of aliens deemed subversive, and the deportation of those in the United States who were members of or affiliated with subversive organizations. The Supreme Court's decision required a finding by the Government of present membership or affiliation, in order to support the exclusion or deportation of an alien.

However, the Congress reversed this situation in the Alien Registration Act of 1940, which made such membership at any time a ground for exclusion and deportation. Other enactments between 1940 and 1950 generally strengthened and, to some extent, enlarged the description of classes to be excluded or deported from the United States as subversives; and authorized the denial of visas to, and the exclusion

of, aliens seeking to enter the United States for the purpose of engaging in activities which would endanger public safety.

In the years immediately following the close of hostilities of World War II, a growing awareness developed of the inadequacies of existing law to cope with Communism's drive for world domination. To meet this increasing threat, Congress enacted the Internal Security Act of 1950. This Act greatly enlarged the proscribed classes of subversive aliens. For the first time the Communist Party was mentioned by name. The terms "communism," "Communist organization," "Communist front organization," "totalitarianism," "advocates," and "doctrine" were defined by statute. Moreover, the Act makes membership, association or affiliation with an organization required to register as a subversive organization under the Subversive Activities Control Act of 1950, a ground for exclusion and deportation.

In addition the discretion of the Attorney General to admit subversive aliens, under preexisting legislation, was completely eliminated with respect to aliens returning to the United States to resume a permanent residence after a temporary absence abroad. Subversive aliens seeking temporary admission could do so only under a severely curtailed discretion of the Attorney General, and, where exercised, the Attorney General was required to make a detailed report to Congress. Many provisions of the Internal Security Act of 1950 were attacked at the time as being unnecessarily harsh, improper, and not in the best interests of the country.

The provisions of the Internal Security Act of 1950 have been carried forward into the Immigration and Nationality Act of 1952, without substantial change. The only significant difference in the treatment of subversive aliens under the 1952 Act is that the definition of "totalitarian party" is limited to an organization which advocates the establishment of a totalitarian dictatorship or totalitarianism in the United States. This would bar admission of members of the Communist Party, but some have expressed concern that it would not bar from the United States members of the Nazi, Fascist, or Falange parties.

SECURITY SCREENING PROCESS

The various administrative agencies have endeavored to establish effective processes to screen out and bar subversive people. The State Department has devised an elaborate screening process in an attempt to ascertain whether applicants for visas come within the statutory designations of subversives. The law requires each applicant for a visa to prepare a lengthy, documented application. In addition, the consular officers usually require the alien to submit a

questionnaire designed, when completed, to provide a basis for a background check of the alien from a security point of view.

After an examination of the papers submitted by the alien, sources of information available in the local Foreign Service posts of the United States and so-called "look-out" notices from the Department of State and the Department of Justice are checked. American officers at the Foreign Service post, such as the military, naval, air, or economic attachés, are consulted to ascertain whether their respective spheres of operation have uncovered any information which might have a bearing on the alien's admissibility. Checks with other sources of information available abroad are utilized wherever practicable.

The alien is invited to appear at the consular establishment to be examined under oath concerning his background and other factors bearing upon his eligibility for admission to the United States. If any derogatory information is uncovered, further action on the alien's application is suspended pending additional examination or pending reference of the application to the Department of State. Should the derogatory information indicate that the alien falls within one of the proscribed subversive classes, the interrogation is usually conducted more thoroughly in order firmly to establish the facts relating to the alien's admissibility. The alien may or may not be given an opportunity to rebut the derogatory information on file.

The consular officer may, of course, refuse to issue a visa at any stage of the investigation, but if he entertains any doubt as to the alien's admissibility from a security standpoint, he is required by regulation to refer the case to the Department of State for an advisory opinion. For former voluntary members of proscribed organizations, no visa may be issued without an advisory opinion. If an advisory opinion from the Department of State is unfavorable, no visa may be issued. However, even if the Department of State renders a favorable advisory opinion, the consular officer may still refuse a visa as he sees fit. Wherever possible the Department of State conducts an independent and supplemental security check, utilizing various intelligence facilites of our Government.

Special provisions of law which relate to accredited officials of foreign governments, or representatives of foreign governments to international organizations, generally make impossible the application of normal screening processes to them. On the other hand, classes of aliens who, because of their profession, occupation, or previous status, present special problems, are subjected to even closer scrutiny and additional checks.

Possession of a visa does not entitle an alien to enter the United States; a visa is, in effect, a permit to apply for admission. An alien with a visa, who applies for admission to the United States, is required

to satisfy the Attorney General that he is eligible under the immigration laws for admission. The Immigration and Naturalization Service has authority to make a completely independent security check upon an alien presenting a visa. Immigration officials at this point have the benefit of advice and information from various intelligence sources in the United States and elsewhere.

Once an alien is in the United States, he may be deported for subversive activities. The investigations preceding the arrest in deportation and the consequent hearing may have been made by one or more of the several intelligence agencies of the United States Government or may have been conducted by the Immigration and Naturalization Service.

Thus, at each stage of the immigration process, the issuance of a visa, the admission at ports of entry, or deportation, the facilities for the detection or apprehension of the subversive alien represent the combined efforts of many intelligence and investigating agencies in addition to the agencies administering the immigration law.

The Commission made efforts to learn whether security agencies, and those responsible for the administration of the immigration laws had any specific recommendations to make in order to strengthen the security provisions of such and related laws. At the time these efforts were made, the act of 1952 had not become effective. However, the Commission is able to report that as of the time of its inquiry, the security measures in the laws and regulations were believed to be adequate. The sole exception was the suggestion that the Commission recommend provisions to enable immigration authorities to exclude applicants for visas who are active members of, or believe in the principles advocated by, Nazi, Fascist, and other such totalitarian organizations.

Generally speaking, the immigration laws deal with three groups of subversives: (1) spies and saboteurs; (2) present members and affiliates of subversive organizations; and (3) former members or affiliates of subversive organizations.

SPIES AND SABOTEURS

The act of 1952 makes ineligible to receive a visa and requires the exclusion of:

> Aliens who the consular officer or the Attorney General knows or has reason to believe seek to enter the United States solely, principally, or incidentally to engage in activities which would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States; . . .
>
> Aliens with respect to whom the consular officer or the Attorney General knows or has reasonable ground to believe probably would, ater entry, (A) engage in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the national security, (B) engage in any activity a purpose of which is the

opposition to, or the control or overthrow of, the Government of the United States, by force, violence, or other unconstitutional means, or (C) join, affiliate with, or participate in the activities of any organization which is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950 . . .

Such aliens, even if they are permanent residents returning after a temporary absence abroad, are specifically denied the benefits of the exercise of discretion. Provisions relating to the parole of aliens into the United States, or to the waiver of documents for nonimmigrant aliens, are not intended by Congress to include these subversive aliens, save for the possible purpose of prosecution for crime. Such aliens may be deported at any time, without regard to when they entered the United States.

Legislation which establishes an absolute bar against admission to the United States of those whose purpose in entering is to engage in activities which violate our laws relating to espionage, sabotage, public disorder or national security must remain on our statute books and be strictly enforced.

These statutory provisions give authority to deal with spies and saboteurs. However, the act of 1952 gives a consular officer the absolute and unreviewable power to bar aliens whom he "knows or has reason to believe seek to enter the United States solely, principally, or incidentally to engage in activities which would be prejudicial to the public interest," or with respect to whom, the consular officer "knows or has reasonable ground to believe probably would, after entry" engage in subversive activities. Elsewhere (chapter 11), the Commission discusses unreviewable administrative action. The difficulties are here aggravated because the statutory language is so undefined. It is susceptible of as many different interpretations as there are men applying it. Such absolute and unreviewable discretion is not necessary for the protection of the security of the United States.

The statute should without doubt leave ample room for the exercise of discretion for the protection of the national security, but it should contain definite standards to guide administrative action, so as to guard against abuse. The vague language of the act of 1952 does not meet this need, and it should be revised so as to specify that it applies to aliens who seek to enter, or who are believed to be seeking to enter for the purpose of violating the criminal laws of the United States relating to espionage, sabotage, and public order; or violating the laws relating to the protection of the conduct of military and foreign affairs; and relating to the protection of other activities and functions of the government and other public agencies, national, state and local, upon which the national security depends.

The administrative review elsewhere recommended for visa denial, exclusion, and deportation actions should be applicable here (Chapter 11).

PRESENT MEMBERS AND AFFILIATES OF SUBVERSIVE ORGANIZATIONS

The law forbids entry to aliens who are anarchists or who are members or affiliates of the Communist Party or other totalitarian organizations, or who advocate or teach opposition to or violent overthrow of all organized government, or who write, publish, display, or circulate or who possess for circulation any written or printed matter which teaches or advocates world communism, opposition to or forceful overthrow of government, the killing of officers of government, the destruction of property or sabotage. Subversive aliens barred from admission to the United States are not limited to those who are members of the proscribed organizations, but also includes those who are affiliated with such groups.

With respect to all classes of subversive aliens, except anarchists, the law authorizes the issuance of a visa to such an alien if he establishes to the satisfaction of a consular officer, and the consular officer finds, that the membership or affiliation of the alien in a subversive organization is involuntary or occurred when the alien was under 16 years of age. It is necessary, in addition, however, that at the time the alien applies for admission to the United States the Attorney General must independently be satisfied and also find that the alien to whom a visa was so issued was involuntarily a member of or affiliated with any of the enumerated subversive classes.

The law authorizes the deportation of any alien who at the time of entry was within any of the classes excluded by law. It also provides for the deportation of any member of each of the categories of subversive aliens who is, or at any time after entry has become, a member of any of the proscribed classes of subversive aliens. Discretionary relief in connection with deportation is denied to aliens who are present members of subversive groups.

There can be no doubt that present members or affiliates of subversive organizations should be excluded from the United States. The issue is what is to be regarded as "member," "affiliate," or a "subversive organization." In these respects, the Commission believes that our present laws are not adequate. In part, the difficulty is that the act of 1952 is lengthy, complex, repetitive, and obscure.

As to membership, the Commission believes that the provision of the present law exempting "involuntary" members is desirable and sound. The purpose of the immigration law should be to bar only

those aliens who, by their membership or affiliation with subversive groups, have identified themselves with the aims and principles of those groups. These exemptions should be interpreted broadly, so that the statutory injunction will encompass only those who were subversives at heart and will not reach those who were merely nominal members, or as a result of compulsion or mistake. Such involuntary membership or affiliation merits the exception which the statute gives it.

"Affiliation" is not fully defined in the 1952 Act, and the statute merely states:

> The giving, loaning, or promising of support or of money or any other thing of value for any purpose to any organization shall be presumed to constitute affiliation therewith; but nothing in this paragraph shall be construed as an exclusive definition of affiliation.

This definition is an improvement over the similar one contained in the Internal Security Act of 1950 which made the giving, loaning, or promising of support or of money a conclusive presumption of affiliation. Nevertheless, even this improved definition should be read in the light of the congressional expression of need for legislation controlling subversive activities, contained in the Internal Security Act of 1950:

> In carrying on the activities referred to in paragraph 6 [establishment of Communist totalitarian dictatorship as part of the world Communist movement], such Communist organizations in various countries are organized on a secret, conspiratorial basis and operate to a substantial extent through organizations, commonly known as "Communist fronts," which in most instances are created and maintained, or used, in such manner as to conceal the facts as to their true character and purposes and their membership. One result of this method of operation is that such affiliated organizations are able to obtain financial and other support from persons who would not extend such support if they knew the true purposes of and the actual nature of the control and influence exerted upon such "Communist fronts."

The security of the United States must be protected against aliens guilty of true "affiliation" with subversive organizations. However, the statutory definition of "affiliation" condemns those who give support to front organizations "for any purpose," and thus may reach the innocent as well as the guilty.

The definition of "affiliation" should make it clear that the law bars those aliens who by their support or contribution or other form of affiliation knowingly and willingly seek to further the subversive aims and principles of the organizations. This proposal is in keeping with the present law's provision authorizing the admission to the United States and the naturalization of aliens who became affiliated with a communist organization without knowledge of its character.

In one respect, the act of 1952 leaves a security loophole, and so does not go far enough to protect the national security. Although the statute attempts to encompass every activity and belief that might be deemed subversive, it fails to ban members or affiliates of foreign

totalitarian organizations, other than Communist. It bars admission to

> aliens who are members of or affiliated with . . . (IV) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state . . .

Comprehensive, though it sounds, this subsection may not bar Nazis, Fascists, or other totalitarian groups who are not Communists. This clause was carried forward verbatim from the Internal Security Act of 1950. But, whereas the Internal Security Act defines the terms "totalitarian dictatorship" and "totalitarianism" as

> . . . systems of government not representative in fact, characterized by (A) the existence of a single political party, organized on a dictatorial basis, with as close an identity between such party and its policies and the governmental policies of the country in which it exists, that the party and the government constitute an indistinguishable unit, and (B) the forcible suppression of opposition to such party, . . .

the act of 1952 adds to the above definition the following:

> The term "totalitarian party" means an organization which advocates the establishment in the United States of a totalitarian dictatorship or totalitarianism . . .

Both the Senate and House Committee reports are silent on the significance of the definition limiting a totalitarian party to one which advocates the establishment of totalitarianism "in the United States." It would appear, however, that the new definition is intended to exclude from the ban of the immigration laws totalitarian parties such as the Nazis, Fascists, and Falangists who are believed not to advocate the establishment of a totalitarian dictatorship in the United States.

No less than communism, other forms of totalitarianism degrade the dignity of man and deprive him of those rights which our Declaration of Independence holds to be unalienable. It is contended that the law should make a distinction between present membership in the Communist Party and present membership in other totalitarian parties, on the ground that communism is the only present menace.

While such a distinction appears plausible in the light of the imminence of the Communist peril, the resurgence of neo-Nazism and neo-Fascism in Germany and Italy underlines the danger of treating such totalitarian movements too lightly. Nazi and Fascists and other advocates of totalitarianism may not be developing plans today to overthrow the Government of the United States or any other democratic government by force and violence. There was a period, however, when they did attempt to dominate the world. The cost of stopping that effort was the heaviest ever paid in the history of the world. The millions of graves of those who died that democracy might survive, or who perished as victims of mass murder; the hundreds of thousands who were maimed; the millions who were stripped of their possessions and forced to undergo undescribable suffering, privation

and misery; the destruction of the economic resources of once prosperous and happy peoples—these results of the evil ambitions, the cruelties of Nazism and Fascism should keep the United States alert forevermore to the danger from that source. The Communists and the Nazis pooled their ideologies and their plans for world conquest to begin World War II. The subsequent disintegration of that unholy partnership was fortunate for the democracies, but we shall be inviting disaster if we receive the disciples of one form of totalitarianism while arming for defense against the other.

The Commission deems the present adherents of all forms of totalitarianism to be hostile to our way of life and believes they should be banned from the United States.

A problem that has troubled the Commission has been the undesirable alien who is a product of our own society. Elsewhere, the Commission has urged that such aliens not be deported. Where such an alien is a present subversive, a special issue arises. Apart from the fact that such an alien is a product of our society, the difficulty, as pointed out to the Commission by the Immigration and Naturalization Service, is that deportation orders for subversives often prove futile. Mr. Justice Jackson succinctly stated the problem in his dissenting opinion in *United States* v. *Spector*, 343 U. S. 169 at pages 179–180.

> A deportation policy can be successful only to the extent that some other state is willing to receive those we expel. But, except selected individuals who can do us more harm abroad than here, what Communist power will cooperate with our deportation policy by receiving our expelled Communist aliens? And what non-Communist power feels such confidence in its own domestic security that it can risk taking in persons this stable and powerful Republic finds dangerous to its security? World conditions seem to frustrate the policy of deportation of subversives. Once they gain admission here, they are our problem and one that cannot be shipped off to some other part of the world.

A law which cannot be enforced brings the entire administration of justice into disrepute.

The Commission requested the Immigration and Naturalization Service for advice and recommendations to meet the problem of aliens who are under orders of deportation, but cannot be deported because no country will accept them. The answer was that the Internal Security Act of 1950 had provided, and the act of 1952 had continued, certain limited sanctions to aid in effectuating an order of deportation against persons in the subversive, criminal and other undesirable groups, and that no other methods of dealing with this matter had been devised.

Under such circumstances, therefore, the Commission believes that this country should accept as its own responsibility all those aliens who are the product of our own society.

The Commission recommends that

(1) present members of subversive or totalitarian organizations, or persons who, by their present affiliation with such organizations, manifest their belief in or sympathy with the aims and principles of such organizations, should be denied visas and should be excluded from admission to the United States. Present membership or affiliation should create a presumption of such belief or sympathy, subject to countervailing evidence to prove that such membership or affiliation was involuntary.

(2) The definition of "totalitarian party," "totalitarian dictatorship," and "totalitarianism" should be clarified so that it embraces all aliens in sympathy with the governmental theories and policies of totalitarianism as that word is defined in the Internal Security Act of 1950.

(3) "Affiliation" as used in the immigration laws should be defined so that it embraces only those aliens who, by their action and conduct, have demonstrated an association with totalitarian groups because of sympathy for or agreement with the subversive aims and principles of such groups.

(4) Alien members or affiliates of subversive organizations who were lawfully admitted to the United States for permanent residence prior to reaching the age of 16 years, or who were lawfully admitted for permanent residence and have resided in the United States continuously for at least 20 years, should not be subject to deportation, but should be dealt with in the same manner as subversive citizens.

FORMER MEMBERSHIP OR AFFILIATION WITH SUBVERSIVE ORGANIZATIONS

At one time, as witness the Alien Registration Act of 1940, present and former members of subversive organizations were treated alike. However, in the act of 1952, Congress recognized that former membership in or affiliation with subversive groups or organizations should not be an absolute bar to admission or stay in this country. It made two exceptions. The first is where such membership or affiliation was involuntary or occurred when the alien was under 16 years of age. The second is where membership or affiliation has been terminated for 5 years and for that period the alien has been "actively opposed" to such subversive ideologies, and where the admission of the alien "would be in the public interest." Each case in this last category must be reported to the Congress.

The deportation of former members or affiliates of subversive classes is, as in the case of present members, provided for by the law. However, unlike present members, former members or affiliates of sub-

versive groups are eligible, under severely limited conditions, to receive discretionary relief by way of suspension of deportation.

The problem of past membership or affiliation is obviously a difficult one. If there is merely a severance of formal bonds of association without a corresponding repudiation of sympathetic belief in the aims and principles of the subversive group, such aliens continue to be threats to our security.

A former member who has made a genuine break with subversive ideology offers no threat to our security. Indeed experience has shown that such converts may represent very stable adherents to the principles of democracy because they are less likely again to succumb to the false blandishments of totalitarianism. **The removal of the absolute bar against former—and now reformed—subversive aliens strengthens our own internal and external security and advances our foreign policy.**

However, the act of 1952 contains other important defects. For example, the requirement of 5 year active opposition to a formerly held totalitarian ideology may defeat important objectives of our intelligence and foreign policy agencies. Escapees who come out from behind the Iron Curtain, or defectors from communism elsewhere, may be of vital and immediate importance to our security and defense as well as to our foreign policy. And yet they must wait 5 years, although there may be conclusive proof of complete reformation in a shorter period of time. Indeed, retention of an inflexible 5-year bar against former subversives might seriously impair the Commission's proposals to grant priority to refugees from communism (Chapter 9).

The requirement of "active" opposition to former doctrines misses the point. Most people who have genuinely renounced subversive ideas do not become active pamphleteers, speakers or professional antitotalitarians; the genuineness of their opposition to totalitarianism cannot be measured by the loudness of their disclaimers.

There is an inconsistency in our laws relating to former membership or affiliation in subversive organizations. The act of 1952 carries forward the previous law's failure to coordinate the naturalization and deportation directives aimed at former members of subversive organizations. The naturalization law permits the admission to citizenship of former subversives whose membership in the proscribed organization ended more than 10 years earlier. But the deportation statute apparently permits the expulsion of such former subversives at any time, even after 10 years has expired since the membership or association with the subversive group terminated. It would seem reasonable to suppose that if a former member of a subversive group is eligible for naturalization after 10 years he should by the same token be able to avoid deportation.

There are also the grossly inconsistent provisions to the effect that a former member of a subversive organization, who actively opposed that subversive organization for a period of 5 years, may now be admitted into the United States although he was never here before, while a long-time resident alien who 30 years ago resigned from membership in a subversive organization, left it, and has since actively opposed it, must be deported.

The Commission believes that the provisions of the act of 1952 to the effect that membership in or affiliation with subversive organizations should not necessarily be a bar to entry into the United States are sound; and the Commission recommends that these same provisions be extended to cover deportation procedures, so that former membership in or affiliation with subversive organizations genuinely repudiated over a period of at least 5 years, should not be a ground for deportation.

The Commission recommends that the requirement of active opposition should be amended by deleting the word "active," thus making its benefits available to all opponents of totalitarianism. The Commission recommends that the requirement of 5 years opposition should be subject to waiver in appropriate cases, after thorough screening and approval by the appropriate security agencies of the United States. This would make possible the admission of bona fide escapees and defectors.

The Commission recommends that the immigration law apply the same conditions to former members and affiliates of all totalitarian parties, whether they were Communist, Nazi, Fascist, or other such parties.

It should be noted, too, that the law requires a finding by both the consular officer and the Attorney General that the admission of the alien would be in the public interest. Without criteria under which "in the public interest" may be measured, the phrase seems too vague for effective administration. It is quite conceivable that administrative officers might seldom, if ever, find that the admission of a former Communist, Nazi, or Fascist would affirmatively be in the public interest. **The Commission recommends that the law should require a finding that the admission of a former subversive would not be contrary to the public interest.**

EXCLUSION WITHOUT HEARING

Security considerations sometimes create special problems in connection with otherwise normal immigration procedures. At least for the past 60 years, an alien has been entitled to a hearing before he can be excluded at a port of entry. However, when the ground for

his exclusion involves confidential information, the disclosure of which would be detrimental to the best interests of the United States, there is a conflict between two important values. On the one side is the security of the United States; on the other is the fundamental concept of American law that a person is entitled to a fair hearing before the Government takes action affecting him.

From at least 1893 until 1941, no alien—not even a subversive—could be excluded without a hearing. In 1941 such provision was made. The Passport Act of 1918 authorized the President in time of war or national emergency to impose additional restrictions and prohibitions on entry into and departure from the United States upon a finding that the interests of the United States so required. The President issued a proclamation on November 14, 1941, reciting the existence of a national emergency and declaring that "no alien should be permitted to enter the United States if it appears to the satisfaction of the Secretary of State that such entry would be prejudicial to the interests of the United States," as provided in regulations issued by the Secretary of State with the concurrence of the Attorney General. These regulations authorized the Attorney General to deny hearings when a person is excludable "on the basis of information of a confidential nature, the disclosure of which would be prejudicial to the public interest."

From the evidence before the Commission, including testimony before Congressional committees and various United States Government briefs in the Supreme Court, this measure was intended to have only limited application. It seems that this procedure was designed to provide a legal sanction for denying access to the United States during war or national emergency only in those special cases where disclosure of the information or the source of the information, on the basis of which the exclusion is ordered for security reasons, would be contrary to the national interest.

During the war years, this new procedure was sparingly used. The Immigration and Naturalization Service reports that only a negligible number of aliens were excluded without a hearing. However, with the end of hostilities immigration to the United States was resumed on a larger scale. In addition, the nation became increasingly aware of the threat to its security by world communism. These two circumstances resulted in an enlarged application of the hitherto limited measure of denying entry without a hearing, because of confidential information. Aliens who had been or were associated with Communist activities and those suspected of such affiliation were excluded without hearing in substantial numbers at seaports and to a much larger extent at land ports of entry. From December 1948, to July 1, 1952, approximately 2,000 aliens, other than seamen, were temporarily excluded without a hearing, and in

about 500 cases the exclusion without hearing was made permanent. The constitutionality of exclusions of aliens without hearing was upheld by the Supreme Court.

The Internal Security Act of 1950 provided the first express statutory authority for excluding an alien without a hearing in security cases. Unlike the Passport Act, however, the Internal Security Act of 1950 does not limit the exercise of the power to exclude without hearing to time of war or national emergency. These provisions of the Internal Security Act of 1950 are carried forward into the act of 1952.

The consideration of exclusions without hearing cannot be isolated from the larger problems created by the efforts of the United States to safeguard its security during the current era of international tensions. At many levels in our national life, we have been confronted with the dilemma of attempting to resolve apparent conflicts between our national safety and traditional concepts of freedom. The attempt to discover a precise line of demarcation is a quest that has led us in many directions and has not yet resulted in any satisfactory solution.

The Commission believes that the present situation in connection with exclusions without hearing is unsatisfactory. The protection of the right to a fair hearing is essential to a democracy. Any legal process which affects people's rights without giving them a chance to be heard is ordinarily regarded as being repugnant to the American sense of fair play. It denies a person the opportunity to defend himself against what may be false accusations. It encourages slanders by people whose stories may be generated by malice, misinformation, or the desire for self-advancement. However, in time of crisis there may be need for extreme measures to protect the national security, and even perhaps for some relaxation of our traditional safeguards for individual rights.

Under present world circumstances, it may be necessary for the United States Government to have authority to bar, without a hearing, aliens whose admission would directly menace the national safety. However, such a power should not be exercised except in the extreme and unusual case where the national security or the lives, welfare, or continued usefulness of our intelligence agents and informants are immediately affected by the fact that the very holding of a hearing will cause disclosure of highly secret information.

The officials who have exercised the extraordinary power to exclude aliens from the United States without hearing have been motivated, the Commission believes, by a sincere desire to protect the nation. However, there is some public belief that this unusual power has been or may be used to excess and without adequate safeguards. And

there is some evidence, including testimony of a responsible immigration official before a congressional committee, to substantiate this belief. The law should provide measures to avoid abuse of this extraordinary power and to limit its exercise to those few and rare cases in which the security of the United States is actually involved.

The Commission recommends that determination as to whether an alien should be excluded without a hearing, on the basis of confidential information, should be made by the proposed Board of Immigration and Visa Appeals (recommended in Chapter 10).

Each alien affected should, unless the proposed Board of Immigration and Visa Appeals decides to the contrary, receive notice of the nature of the charges against him, and such other information as the Board may determine, after consultation with intelligence agencies, will not prejudice the public interest. Any such alien should have the opportunity, before any such determination is made, to testify and to present in person or by counsel any information or evidence or argument he may desire to submit on his own behalf. These procedural safeguards should be incorporated into the statute or in regulations issued thereunder.

A determination to exclude without a hearing should be supported by strong and convincing evidence, not mere rumor or unsustained suspicion. It should be reached only after every effort is made to investigate the charges and evaluate the confidential information. It should never be used because evidence is not easily obtainable.

In this way, the Commission believes that the security of the United States would be protected and a procedure established to preserve the American concept of fair dealing.

NONIMMIGRANTS

During its hearings the Commission was advised of the serious problems raised by denial or delays in the granting of visitors' visas to distinguished scientists, scholars, and other leaders in the arts, professions, and business.

The Commission believes that no special rule should be made for visitors or nonimmigrants who are present members or affiliates of subversive organizations. However, the problem seems to have arisen because of former association with such organizations.

In discussing the subject of visas for immigrants who wish to come for permanent residence and who were former members of subversive organizations, the Commission expressed doubt as to the wisdom of a rule in the act of 1952 which set an inflexible 5-year period between renunciation of such membership and eligibility for such visas. There seems to be no necessity for applying such a 5-year rule to temporary visitors.

If the visa-issuing officers have authority to issue a nonimmigrant or visitor's visa to a former member of a subversive organization, without regard to a 5-year period of renunciation, their decisions can be made on the basis of the facts in each particular case. The length of time since repudiation of the subversive ideology, the nature of subsequent opposition to such views, the purpose and length of the proposed visit to the United States, the alien's field of activity and background, and the character of his sponsorship are all factors relevant in such considerations.

Some of the complaints during the Commission's hearings concerning nonimmigrant visas relate to administration. It was said that the consular offices are understaffed and cannot act rapidly enough to serve the needs of American universities and other institutions which sponsor and invite distinguished visitors for symposia, conferences, or other meetings.

Another suggestion arose out of the embarrassment suffered by leading American institutions which invite foreign guests and make preparations for their reception, only to find that they are refused visas. The Commission was requested to recommend that the law provide a preclearance system for professional and scientific persons invited to the United States by universities and scientific or other institutions. The purpose of this suggestion is to obtain a binding commitment in advance from the Department of State that a particular scientist or professor would be issued a visa upon application. In this way, invitations would be extended only to those whose admissibility to the United States was assured, and the embarrassments of the present situations could be eliminated. The Commission believes that this suggestion should be given a trial, unless some more effective procedure is devised.

A matter of great importance to the United States is the status of defectors. These generally are official representatives of a totalitarian government who while officially in the United States defect and request asylum here. Such persons normally were admitted only because of their diplomatic status; having lost such status, the law requires that, as former subversives, they be deported. Temporary arrangements now are made to bridge the gap. If the defection of such former official is genuine, his contribution to the cause of democracy in combating the ideologies which he formerly embraced is usually invaluable according to the highly reliable advice given to the Commission. The law should permit adjustment of the status of such a person so that he may remain in this country and aid in the cause of democracy.

The Commission recommends that arrangements be made to expedite the granting of visas to distinguished scientists, scholars,

and other leaders in the arts, professions, and business, invited to the United States for temporary visits by responsible institutions; and that consideration be given to the inauguration of a preclearance system, so that it could be determined in advance whether particular individuals would be admitted as temporary visitors.

The Commission recommends that aliens should be permitted to enter the United States for temporary visits, regardless of former membership or affiliation with subversive organizations, if the purpose of their visit is legitimate and if there is no reason to believe that they will engage in activities inimical to the United States.

The Commission recommends that bona fide official defectors from totalitarianism be permitted to adjust their status to permit them to remain in the United States.

Citizenship

American citizenship is one of the most valuable rights in the world today. The manner in which it can be acquired or lost is a matter of deep concern to all Americans. It is important that the establishment of such a basic right shall be clearly defined, and that unreasonable conditions shall not defeat the creation and maintenance of citizenship status.

American citizenship may be acquired through birth or naturalization. All persons born in continental United States, Alaska, Hawaii, Puerto Rico, Virgin Islands, and Guam, with a few exceptions, are citizens of the United States at birth. Persons born abroad to American citizen parents derive citizenship through their parents. If only one parent is a citizen of the United States, citizenship may, subject to certain limitations, be transmitted to the child at birth.

The privilege of naturalization is open to all resident aliens who can prove 5 years lawful residence, good moral character, and attachment to the principles of the Constitution of the United States. By law, special benefits, such as waiver of some of the residence requirements, are provided to certain groups. Among these special groups are spouses and children of citizens and aliens with military and maritime service. The Immigration and Naturalization Service exercises administrative supervision over the naturalization process, but naturalization can be granted only by a naturalization court.

Citizenship can be lost in two ways. The first is denaturalization, which applies only to naturalized citizens and subjects them to revocation of citizenship by court order. The second is called expatriation and applies to all citizens, native-born and naturalized, making them subject to loss of citizenship for certain acts deemed inconsistent with the duties and obligations of citizenship. There are 10 such types of conduct now specified by statute which cause expatriation, including obtaining naturalization in a foreign state, taking a foreign oath of allegiance, renunciation of American citizenship, serving in a foreign army, and voting in a foreign election.

In certain respects the act of 1952 made significant improvements in the nationality laws. Among these were the complete abolition of the racial disqualifications, confirmation of the right to naturalization of conscientious objectors on religious scruples, elimination of the formal declaration of intention as a prerequisite for citizenship and removal of the literacy requirement for older people.

However, there are some undesirable substantive and procedural provisions in the act of 1952 relating to nationality problems.

It is in the national interest to encourage qualified aliens to become American citizens. Naturalization requirements or procedures which unreasonably restrict the full integration of qualified aliens into the American community are unwise. Obviously provisions which unreasonably subject American citizens to loss of their citizenship, or which discriminate among American citizens by failing to treat them all equally, are not in our country's best interest.

SECOND-CLASS CITIZENSHIP

Many witnesses before the Commission were critical of what they characterized as "second-class citizenship." The complaint concerned provisions of the act of 1952 which give naturalized citizens an inferior status to native-born citizens. This situation arises in relation to the status of naturalized Americans, and the rights of native Americans who have acquired dual nationality at birth.

Conduct Subsequent to Naturalization

Since 1906 the naturalization laws have authorized revocation of naturalization after it has become final and fully effective. Denaturalization has no counterpart in the status of the native-born American.

Naturalization is a judicial function. In passing upon an application for citizenship, the naturalization court must determine whether the applicant has met qualifications prescribed by Congress. If the applicant has deceived the court, it seems entirely appropriate that the benefits he has improperly obtained should be taken away. A safeguard against hasty or ill-advised action is the requirement that denaturalization can be accomplished only upon order of a naturalization court.

Fraud or illegality in the naturalization proceeding directly affects the propriety of the naturalization itself and justifies its cancellation. However, what happens after the court has granted naturalization is another matter. The act of 1952 has introduced new provisions which have gone beyond the protection of the naturalization process, and have created the possibility of denaturalization on the basis of conduct occurring after naturalization.

These innovations in the act of 1952 were deplored in testimony during the Commission's hearings. They were characterized as devices which, if extended, would jeopardize the status of millions of naturalized citizens. It was pointed out that since native born citizens were not subject to such penalties, the statute tended to make the naturalized American a "second class citizen."

There are several examples of this type of provision in the statutes. An illustration is the statutory presumption of fraud which authorizes denaturalization, in the absence of countervailing evidence, because of a naturalized citizen's residence in a foreign country. Such residence, subsequent to naturalization, is related back to the naturalization itself.

This category of presumptive fraud applies to naturalized citizens who, within 5 years after naturalization, establish residence in a foreign country. In applying for citizenship, an applicant must swear that he intends to reside permanently in the United States. Since 1906 the naturalization statute has designated as presumptively fraudulent the naturalizations of persons who establish residence in a foreign state within 5 years after naturalization, and has made their naturalizations subject to revocation in the absence of other evidence. Approximately 95 percent of revocations of naturalization have been on this ground. In 1951, out of an aggregate of 403 denaturalizations, 384 were for presumptive fraud in establishing residence abroad within 5 years after naturalization; and the remaining 19 were for actual fraud or illegality.

The act of 1952 introduces a new ground for denaturalization for presumptive fraud, specifying that if within 5 years after naturalization a naturalized citizen joins or affiliates with a subversive organization, membership in which would have barred the grant of citizenship, his naturalization is subject to revocation as presumptively fraudulent. In such cases it is presumed, in the absence of contrary evidence, that the naturalized person was not attached to the principles of the Constitution of the United States or well disposed to the good order and happiness of the United States.

Another example of such a provision is the new one in the act of 1952 which subjects to denaturalization an alien who is convicted of contempt of Congress for refusing, within 10 years after his naturalization, to testify before a congressional committee concerning his subversive activities.

These three illustrations differ in one important respect. The former two are presumptions which relate to whether the original naturalization was obtained by fraud, through concealment of material facts. Both relate to the naturalized person's intentions at the time of applying for naturalization, and thus present formidable difficulties of proof.

In the two presumptions mentioned in the statute the conduct which follows after the naturalization appears to negate the declarations as to intention and belief made by the naturalized person when he sought citizenship. Although the loss of citizenship through presumption is undesirable, it seems reasonable to assume, until further proof is presented, that a naturalized person swore falsely in stating that he

intended to reside permanently in the United States when he actually became a permanent resident of a foreign country soon after his naturalization. This presumption can be rebutted, and often is, by evidence submitted to consular officers or to a naturalization court indicating that the representations in the naturalization application were bona fide.

So, too, it does not appear unreasonable to assume that a naturalized person swore falsely in declaring that he was attached to the principles of the Constitution when he joined a subversive organization within a short period after his naturalization. Here, too, the opportunity is offered to the naturalized person to prove that he is not guilty of deception in connection with his naturalization.

Although these two directives for loss of citizenship through presumptive fraud are aimed only at naturalized citizens, the Commission concludes that they relate to the propriety of the naturalization itself and represent a reasonable measure of control against fraudulent naturalizations.

The provision relating to contempt of Congress is of another character. As undesirable as the conduct may be, it does not necessarily relate to the legality of the original naturalization.

The punishment of proved subversives is necessary to our national security. But where there is no evidence of fraud in the original naturalization, the use of denaturalization as such a punishment is dangerous to our welfare as a nation because such legislation is a disturbing step in the direction of insecure citizenship status. The threat today to the citizenship of naturalized citizens who defy Congress may tomorrow menace the status of all naturalized Americans. The naturalized citizen who violates the law should be punished, but his punishment should be no different from that applicable to a native born citizen. Denaturalization should not be used as an additional penalty for discrimination between native and naturalized citizens.

The Commission recommends that a naturalized citizen should not be subject to denaturalization for conduct subsequent to his naturalization, unless such subsequent conduct proves that he obtained his citizenship by fraud or illegality.

Residence In a Foreign Country

In 1907, Congress provided that any naturalized citizen who resides for 2 years in the foreign state from which he came, or 5 years in any foreign state, shall be presumed to have lost American citizenship.

The 1907 act was designed to deal with the difficulty experienced by the State Department in affording protection to American citizens resident in foreign lands, particularly naturalized citizens who returned to their countries of origin. The presumption was used only

to relieve the State Department of the obligation to extend diplomatic protection to those naturalized citizens who remained abroad for the prescribed period of time. Citizenship was not lost thereunder, however, since the courts construed the presumption of loss of nationality as one easy to overcome, for example, by returning to the United States, regardless of the length or cause of absence.

In 1940, Congress abolished the presumption and provided for the absolute loss of citizenship by a naturalized citizen by reason of mere residence abroad: residing for 2 years in the country of birth or former nationality, if by such residence he acquires nationality of such state; residing for 3 years in the country of birth or former nationality; or residing 5 years in any foreign country. The act of 1952 retains the 3- and 5-year residence periods for loss of nationality.

These provisions for loss of nationality, limited to naturalized citizens, create a second class citizenship status. Native-born citizens have an unrestricted right to travel and remain abroad as long as they please. A naturalized citizen may remain abroad no longer than 5 years. The loss of citizenship under this law is now automatic; it is no longer a mere presumption subject to rebuttal.

It has been urged upon Congress that naturalized citizens who return to their countries of origin or former nationality are apt to renew old associations and ways of living and thus lose to a large degree, if not completely, their American ties. Furthermore, it is objected, such naturalized citizens, although wholly divorced from American life by reason of resumption of former residence and ways, transmit their American citizenship to their foreign born and reared children. This argument, however, does not apply to the provision for loss of nationality by naturalized citizens who go to a third country. In this respect the situation posed by protracted foreign residence is the same for the native born as it is for the naturalized citizen. Neither goes back to a former culture or way of life; the foreign-born children of both are equally removed from American customs, traditions and ways of life. There is no reasonable distinction between native and foreign-born citizens under such circumstances.

These provisions are detrimental for several reasons. By attaching strings to a naturalization order, they create a body of citizens unable to do, except on penalty, what other citizens may do.

Secondly, they undo a judicial determination without the benefit and protection of court action. Naturalization is obtained through a formal judicial proceeding determined by the entry of a formal judgment. All judgments should be clothed with that degree of finality necessary to the orderly process of judicial administration. Judgments in naturalization should similarly be vested with finality. If fraud in obtaining naturalization is suspected, a judicial proceeding

to set aside the judgment is necessary. The loss of naturalized citizenship by reason of mere residence abroad should not result from legislative fiat.

The Commission recommends that a naturalized citizen may lose citizenship by 3 years residence in a foreign country only if the country be the one of his birth or former nationality; and that in such case the foreign residence should create a presumption of the loss of citizenship which, unless rebutted in an appropriate judicial proceeding, may result in the entry of a judgment terminating his citizenship.

Dual Nationality at Birth

Under the laws of some countries, the nationality of parents is vested in the children, no matter where they are born. Consequently, if born in the United States of aliens who are citizens of such a country, children would have citizenship in the United States and also in the country of their parents. Likewise, if they were born in a country where their parents, native or naturalized citizens of the United States, maintained residence, they would be citizens of the country of their birth and also of the United States. Such persons are known as dual nationals.

The act of 1952 incorporates a new provision, the purpose of which is to cause the loss of nationality of a native-born citizen, who at birth also acquired a foreign citizenship, if he should reside for 3 years in the state of his foreign citizenship at any time after attaining the age of 22 years and seek or claim the benefits of such foreign nationality. The full force of this provision is lessened by exempting from its operation those dual nationals, who are abroad for certain specified purposes and who prior to the expiration of the 3-year period of residence, take an oath of allegiance to the United States before an American diplomatic or consular officer.

Witnesses at the Commission's hearings criticized this provision, stating that it improperly curtailed the rights of native-born Americans and that such dual nationals should be subject to loss of their citizenship only for the same causes that apply to other native citizens. The purpose of this statutory provision is to eliminate a status of dual nationality in which a person who resides in a foreign country and is not in fact identified with the United States uses his American citizenship only when it suits his purposes.

It is not in the national interest to permit retention of dual nationality by a person to whom American citizenship is only a matter of convenience and who has no real tie with the United States. Consequently, there is merit in the principle which requires the dual national under certain circumstances to make an election between his

nationalities. However, the Commission believes the present statute should be revised in several respects.

The statute does not distinguish between dual nationals who were born in the United States to American parents, who live in this country virtually their entire lives, and dual nationals who were born abroad to American citizen parents and have never been in the United States. Americans, born here or abroad, who have spent their formative years in the United States and who reside in this country when they reach the age of 21 should be deemed to have elected American citizenship and should not be treated differently than any other citizens. **There should be no limitation on the purposes for which native Americans can reside in a foreign country, provided they have elected to retain their American citizenship.** The statute should provide greater assurance against retention of two citizenships by dual nationals residing abroad by requiring them to renounce their foreign nationality when they take an oath of allegiance to the United States.

Birth in Territories or Possessions

All persons now born in Alaska, Hawaii, Puerto Rico, Virgin Islands, and Guam, subject to the jurisdiction of the United States, acquire United States citizenship at birth. However, the status of persons previously born in those possessions is not clear. Former statutes wove a patchwork pattern which left obscure and uncertain the status of many inhabitants of such territories, particularly Puerto Rico. The act of 1952 did not clarify these obscurities.

The Commission recommends that the citizenship status of persons born in the territories and possessions of the United States be clarified by explicit statutory provisions. The Commission recommends also that legislation be enacted to confer citizenship benefits upon the indigenous inhabitants of American Samoa, the last major possession of the United States to which the protections of American citizenship have not been extended.

STATELESSNESS

It is commonly accepted that every person should have a nationality, and that statelessness should be avoided Yet our laws today contain many grounds for the loss of American citizenship which have no relationship to the acquisition of another nationality. One informed witness before the Commission stated that: "We have more grounds for revoking citizenship through expatriation than any other country." Under our laws a person may lose his American citizenship although he has no wish to give it up, and although he does not at the

same time acquire citizenship in another country. As a result he becomes a stateless person.

There is a valid and important difference between giving up one's nationality by voluntary expatriation, and becoming stateless by virtue of legislative mandate.

In the early days of the country, the United States was the international champion of every individual's right to expatriate himself. In 1868, Congress declared by statute that the right of expatriation is a natural and inherent right of all people. We were then welcoming and seeking immigrants from the Old World and the refusal of European rulers to recognize American naturalization of its former subjects was a matter of concern to us.

But although the United States recognized and espoused the inherent right of all persons to expatriate themselves, our own laws were silent as to what actions by our citizenry would result in voluntary expatriation or involuntary forfeiture of citizenship. The courts and administrative officers solved such issues as they arose. In 1907, Congress declared that any American citizen shall be deemed to have expatriated himself when he has been naturalized in a foreign state or has taken an oath of allegiance to any foreign state. Except for statutes providing for loss of the rights of citizenship in time of war by deserters or draft evaders, the law remained unchanged until enactment of the Nationality Act of 1940. This greatly increased the kinds of actions and conduct on the part of American citizens which would effect their expatriation or loss of nationality. The act of 1952 continued in the framework of the Nationality Act of 1940, with some modifications. The 1952 act lists 10 grounds upon which both a native-born or naturalized citizen may lose his nationality, in addition to the provisions that deal especially with naturalized citizens and dual nationals.

Experience under the 1940 act, according to informed observers, has shown that some of the grounds of expatriation have deprived American citizens of citizenship as a result of acts committed under circumstances which do not warrant such a loss. Perhaps the most serious objection to the inclusion of so many grounds for expatriation is that the law thus enlarges the class of stateless people.

Some of the many examples which illustrate this characteristic of the law are as follows:

Service in Foreign Armed Forces

Prior to 1952, service in the armed forces of a foreign state, without express authorization by the laws of the United States, caused expatriation and loss of American citizenship only if the person had or acquired the nationality of such foreign state. The act of 1952 makes mere service itself an act of expatriation, without regard to whether

it involved an oath of allegiance to such foreign state or any act or course of conduct inconsistent with the duties and obligations of American citizenship, unless, prior to entry into such armed forces, such service has been officially authorized in writing by the Secretaries of State and Defense.

Service in foreign armies by American citizens can be motivated by many purposes entirely consistent with allegiance to the United States. Thus, before entry of the United States into World War II, many Americans volunteered for service in the armies of Canada, Great Britain, and other nations later allied with the United States. Other young Americans serve in foreign armies because of a spirit of adventure; still others may serve as technicians. No sound national purpose is served by imposing the loss of citizenship unless the service is accompanied by an oath of allegiance or is undertaken by one who has or acquires the citizenship of the foreign nation in whose army he serves.

The Commission recommends that the law in this respect be restored to what it was prior to the act of 1952.

Voting in Foreign Political Election

The act of 1952 continues without change the provision of the Nationality Act of 1940 that voting in a political election of a foreign state is a ground for expatriation. Although exercise of the franchise in a foreign country ordinarily denotes allegiance to that country experience with this provision has proved troublesome. Congress has found it necessary to pass legislation excusing such voting in certain elections in Italy. The fact is that voting in political elections is not always restricted by the laws of foreign countries to their own citizens. In the Italian elections a few years ago, for example, a campaign was waged from the United States to urge all qualified persons to vote. A similar situation occurred in occupied Japan and Germany. Furthermore, both the courts and administrative officials of the government have had difficulty in determining what is a political election.

This cause for expatriation also creates or may create a group of stateless persons. In such cases where eligibility to vote in a foreign state even in political elections is dependent only upon the ownership of property in the foreign jurisdiction, the act of voting is not inconsistent with allegiance to the United States.

The Commission recommends that citizenship be lost by virtue of voting in the political elections of a foreign state only where eligibility to participate in such elections is by the laws of such foreign state restricted to its own citizens and where the person who so voted had or acquired the nationality of such foreign state.

DISRUPTION OF FAMILY UNITY

Our nationality policy has always sought to foster the unity of families among American citizens. However, in some important respects the law today disrupts such family unity by its action in connection with citizenship.

Birth Outside the United States to American Citizen Parents

Since 1790 the laws of the United States have provided for acquisition of United States citizenship by children born abroad to parents who were American citizens. The obvious purpose was to maintain unity of citizenship between American parents and their children. For many years only the father could transmit United States citizenship, but since 1934 citizenship may be derived through either parent.

When both parents are citizens the statute plainly sanctions transmission of citizenship to their child at birth abroad. However, when only one parent is a citizen the statutory conditions have become increasingly restrictive. The act of 1952 requires actual physical presence in the United States for 10 years by the citizen parent, prior to the child's birth, at least 5 years of which were after attaining the age of 14. The purpose of requiring prior residence of the parent to insure identification with the United States appears sound. But the requirement of physical presence apparently would exclude a parent who had been out of the United States temporarily, even for a few days. The act of 1952 also continues the provision of the 1940 act which precludes transmission of citizenship by a native American parent under 19 years of age who has lived in the United States his entire life, but whose child happened to be born outside the United States. Thus, the statute does not confer American citizenship upon the child born outside the United States to an 18-year-old native American soldier stationed overseas or to an 18-year-old native American girl temporarily in an adjacent foreign country.

The Commission recommends that the crucial factor in transmitting citizenship to a child born outside the United States should be the American citizen parent's previous residence, rather than continuous physical presence, in the United States. The Commission recommends that a child born abroad to a native American parent should acquire United States citizenship at birth, without regard to the age of the parent or the length of time such parent has resided in the United States.

Alien Spouses of Citizens

Until 1922 the naturalization laws of the United States provided for the citizenship unity of husband and wife. An alien woman who married an American thereby became an American citizen. An Amer-

ican woman who married an alien lost her American citizenship. Since September 22, 1922, the citizenship status of husband and wife have been independent of each other.

At the same time our national policy has continued to take into account the need for promoting unity in family citizenship status, on a voluntary basis. This has been done by granting liberal benefits under the nationality laws to the spouses of American citizens.

The act of 1952 has continued this policy but has introduced undesirable limitations. For example, it increases the requirements for naturalization of spouses of American citizens, many of whom may be the brides of American servicemen. The required probationary period is lengthened to 3 years and additional residence requirements, including one of physical presence, are imposed. These added restrictions were criticized by witnesses at the Commission's hearings.

The Commission recommends that the spouse of an American citizen should be eligible to become naturalized upon completing one year of residence in the United States in marital union with the citizen spouse, following lawful admission for permanent residence.

Alien Children of Citizens

The same considerations of family unity underlie the derivation of citizenship by children of naturalized citizens. It is desirable that a minor child living with his parents in the United States should acquire American citizenship with his parents. The law always has provided for such derivation of citizenship by minor children automatically upon the naturalization of their parents. In 1940 the maximum age at which such a child could derive such citizenship was lowered from 21 to 18 years and derivation occurred only when both parents, or the sole parent, were naturalized. The act of 1952 lowered the maximum age of derivation to 16 years.

There seems to be no valid reason for such curtailment of the rights of children. The child cannot himself apply for naturalization until he reaches the age of 18, and it seems entirely proper that until then his citizenship status should be governed by that of his parents. **The Commission recommends that the maximum age for acquiring derivative citizenship through the naturalization of alien parents be restored to the age of 18 years.**

HANDICAPS TO ACQUIRING AND MAINTAINING CITIZENSHIP

Other unreasonable provisions for the acquisition and loss of citizenship are prescribed by the act of 1952.

Definition of Good Moral Character

The requirement that naturalization applicants must show good moral character during the required probationary period of residence has been part of our naturalization laws since 1795. Until 1952, however, the statute did not define good moral character, but left the definition to the courts to interpret. It was ruled that the statute did not insist on moral excellence, but required conduct that measured up to the prevailing standard of behavior in the community. Although opinions differed on some issues, this formula was a flexible one which on the whole seemed satisfactory in operation.

Although the statutory qualifications for citizenship have undergone relatively few changes for nearly 150 years, the interpretations placed upon the statute by the courts have been subjected to many changes. Long-established precedents have been discarded in favor of newer concepts generally more liberal to the applicant for citizenship. During the last decade the courts increasingly have seemed to interpret the statutes in the light of moral trends as conceived by them. The result has been a gradual relaxation of earlier more rigorous standards.

The act of 1952 does not undertake a full definition of good moral character, but the statute attempts to describe certain patterns of conduct that are not to be regarded as fulfilling the requirement of good moral character. In each instance, the new law usually attempts to negate a specific court decision.

Thus, for example, the statute provides that a person who has committed adultery during the prescribed period of good behavior cannot establish good moral character. In testimony before the Commission, the Immigration and Naturalization Service urged amendment of this provision for the reason that the variations among different states in defining adultery would make this provision difficult to administer. Experience in administration has revealed matrimonial relationships of long stability and respectability, entered into in complete good faith, which are irregular only because of some technical defect. The declaration by law that innocent participants affected are not persons of good moral character may be contrary to the facts.

This is merely one illustration of the results of the narrow definition of moral character in the act of 1952. **The Commission recommends that the statute continue to require applicants for naturalization to establish good moral character, without defining that term. The interpretation of this requirement should be left to the courts, as it was before the act of 1952.**

Requirement of Continuous Residence

In requiring specified periods of continuous residence by applicants for naturalization the statute always has taken into account the needs of aliens whose homes were in the United States but who were necessarily absent from time to time.

The act of 1952 made some improvements in the provisions affecting such aliens, but in other respects the statutory benefits seem unnecessarily curtailed. The principal objection seems to be to the requirement for periods of physical presence in the United States aggregating at least 2½ years as a prerequisite to eligibility for citizenship.

Representatives of Coca-Cola Export Corp. and International General Electric have pointed out to the Commission that this limitation reduces the value of the statute. In their overseas operations American institutions of research and business concerns frequently employ aliens who reside in the United States. It is to the advantage of such organizations, to the aliens, and to the Government of the United States to permit such aliens to become citizens. But the nature of their employment often requires such aliens to remain away from the United States for long periods of time. The restrictive provisions of the act of 1952 in effect would deny them the benefits of American citizenship.

The Commission recommends that the requirement of the act of 1952 for continuous physical presence be eliminated in the cases of aliens necessarily absent from the United States in the employment of an American research or business organization.

Naturalization of Aliens with Military Service

For many years the naturalization laws awarded citizenship benefits to aliens who served in the Armed Forces of the United States. The benefits varied for different periods of service, and the statutes were confused and obscure. The act of 1952 introduced conditions of increased severity. Among these are the new requirements that the veteran must prove lawful admission to the United States for permanent residence and 5 years good moral character. A separate section benefits veterans of World War I and World War II, but carries forward an earlier requirement that they must have been lawfully admitted for permanent residence if they were not enlisted or inducted in the United States. No special benefits have as yet been extended to the veterans of the conflict in Korea.

The Commission recommends that the following groups of alien veterans be permitted to become American citizens without being subjected to any additional requirements, other than current proof of good moral character and attachment to the principles of the

Constitution of the United States: (1) aliens who have served honorably for 3 years in the Armed Forces of the United States at any time; or (2) aliens who served honorably in the Armed Forces of the United States during World War I or World II; or (3) aliens who have served honorably in the Armed Forces of the United States in the military operations in Korea.

Denaturalization for Concealment or Misrepresentation

The Naturalization Act of 1906 provided that naturalization could be revoked on the ground that it was fraudulently or illegally procured. These grounds for revocation were retained in the law until 1952. In the report of the Senate Judiciary Committee, which preceded the act of 1952, it was stated that there was confusion in the court decisions on what constituted fraud, and the committee therefore recommended that the statute authorize revocation for concealment of a material fact or willful misrepresentation. That formula was adopted in the act of 1952.

Fraud is a term found in many statutes. The courts have ruled that a naturalization is illegally procured when one of the essential statutory requirements for naturalization is lacking.

The administration of the prior law seems to have presented no real difficulty and there was no suggestion from any administrative source that the statute's language needed revision. Moreover, for 46 years the Department of Justice had followed a policy of not instituting denaturalization proceedings where the violations were minor, and where it would not be to the interest of the United States to revoke citizenship. Consequently, denaturalization for fraud or illegality has been sought in comparatively few cases in recent years. In 1950 and 1951 a total of only 42 naturalizations were cancelled for fraud or illegality. The following table, from the annual report of the Immigration and Naturalization Service for 1951, lists the causes for such revocations during that year.

Table 15.—*Naturalizations Revoked During 1951 for Fraud or Illegality*

Failed to meet residence requirements (false allegations)	5
Bad moral character (fraud involved)	1
Misrepresentations and concealments relating to marital and family status	3
Bad moral character (no fraud involved)	2
Dishonorable discharge following naturalization based on military service during World War II	2
Unwilling to bear arms (oath taken with mental reservation)	1
Naturalization fraudulently or illegally procured	2
Other grounds	3

Instead of eliminating supposed "confusion," the requirements of the Act of 1952 are likely to result in confusion. In place of a definite, widely understood formula, it substitutes a new one—concealment of a material fact and willful misrepresentation—which is bound to engender uncertainty and provoke litigation. In eliminating illegality as a ground for denaturalization, the new Act may make it possible for aliens who actually were subversives or criminals at the time of their naturalization to escape denaturalization on a claim that they were not asked about their subversive or criminal activities and consequently made no misrepresentation.

The Commission recommends that the previous grounds for denaturalization be restored so that naturalization obtained by fraud or illegality be subject to cancellation.

Absence of Statute of Limitations

The Act of 1952, like previous naturalization laws, provides no statute of limitations restricting the time during which action may be brought to revoke naturalization. There have been instances in which denaturalization suits have been brought 20 or 30 years after the granting of naturalization. Elsewhere (chapter 13) the Commission recommends that a 10-year statute of limitations be established for the commencement of deportation proceedings against aliens who enter the United States illegally. The same considerations are controlling in relation to denaturalization. A person who obtains citizenship wrongfully should be subject to revocation of his citizenship.

The possibility that naturalization may be revoked at any time is a threat against the stability of status of all naturalized citizens. Obviously, too, the lapse of time may cause significant changes in circumstances as a result of which the rights of innocent third persons may become involved.

The Commission recommends that no proceedings for denaturalization be instituted after the expiration of 10 years following the date of naturalization.

Loss of Derivative Rights

The naturalization of an alien may result in the automatic vesting of citizenship rights in such alien's spouse and children. The revocation of the naturalization of the person through whom such citizenship was derived may have a decisive effect on their claim to derivative citizenship.

The law in effect prior to 1940 made no mention of the effect of a denaturalization proceeding upon derivative rights. However, the courts generally ruled that if the basic right was found to have been improperly obtained the derivative rights likewise were expunged,

regardless of the number of years during which the derivative citizen had innocently continued to exercise the rights of American citizenship. The stringency of this rule was modified by the Nationality Act of 1940, which provided that the citizenship of the derivative citizen was extinguished only upon a denaturalization for actual fraud, and that the derivative rights were not affected when the naturalization was revoked for illegality or presumptive fraud.

The Act of 1952 modified the rule of the 1940 Act. Hereafter derivative rights will fall whenever naturalization is canceled on the ground that it was procured by concealment of a material fact or by willful misrepresentation. When citizenship is canceled for presumptive fraud, all derivative rights will be extinguished, except where the derivative citizen is residing in the United States at the time the naturalization was revoked.

No public interest seems to be served by withdrawing citizenship of a derivative citizen where he himself is free from fault. The rule of the 1940 Act was sound and workable and sought to avoid excessive disturbance of the status of persons whose American citizenship had become vested, and often had endured for many years.

The Commission recommends that the rule of the law prior to the Act of 1952 be restored and that derivative rights of citizenship shall be extinguished only when the naturalization from which they are derived is revoked on the ground of actual fraud.

NATURALIZATION PROCEDURES

Although the witnesses at the Commission's hearings did not refer as often to problems of naturalization as to immigration, there was evidence of a belief that the last decade marked a steady improvement in the procedures in naturalization cases, in the cooperation maintained with schools and social agencies aiding the applicant for naturalization, and in the attitude of the administrative officers in dealing with naturalization applicants. Satisfaction has been expressed with the efforts of the Immigration and Naturalization Service in the promotion of education and training for American citizenship, and for encouraging aliens who seek to qualify for naturalization.

However, the procedure for naturalization, written into law, still seems open to objection.

Procedure in Court

Since 1926 provision has been made by statute for appointment of naturalization examiners, known as designated examiners, to conduct preliminary examinations of naturalization applications and to make formal recommendations to the naturalization courts. Originally

such designations were made by the courts themselves. Since 1940 the designations have been made by the naturalization officials.

The designated examiner system proved a great convenience to the courts, the applicants, and the Immigration and Naturalization Service. Where the examiner's recommendation is favorable the applicant is usually admitted to citizenship without any further inquiry. In questionable cases or in cases where the examiner's recommendation is adverse the facts are fully presented to the court.

In 1943 the Immigration and Naturalization Service instituted centralized review of the recommendations of the designated naturalization examiners. The purpose was to produce uniformity and improvement in such recommendations. The act of 1952 continues a requirement introduced by the Internal Security Act of 1950 that where the Attorney General's recommendation to the court disagreed with that of the designated examiner, both recommendations should be submitted to the court. Vesting such authority in the examiner, in opposition to the views of his department head, results in conflicting recommendations to the court and in unsound administration. **The Commission recommends that the only recommendation on naturalization made to the court should be the one approved by the head of the agency administering the naturalization law or by an officer designated to make recommendations on his behalf.**

Neighborhood Investigation

Another new provision, introduced in the Internal Security Act of 1950 and continued in the Act of 1952, requires a personal investigation of each naturalization applicant in the neighborhood of his residence and employment during the past 5 years. The Attorney General may waive such investigation in any case or class of cases.

In the past, such investigations have been conducted in particular cases when preliminary examination has indicated the need for further inquiry. The new requirement that there be such investigation in every case places a tremendous burden on naturalization officials. Moreover, experience has demonstrated that such investigations achieve little or no results to justify the effort and cost, and cause unnecessary delays in considering the naturalization petition.

The Commission recommends the elimination of the requirement that a neighborhood investigation be conducted as a matter of routine in every naturalization case. The naturalization officers should be authorized to conduct such investigations whenever they deem them necessary, on the basis of information developed in individual cases.

JUDICIAL PROCEEDINGS TO ESTABLISH CITIZENSHIP

The immigration laws of the United States deal only with aliens, and a person who establishes that he is a citizen of the United States is removed from their sphere of operation. But the claim to American citizenship by an applicant for entry into the United States does not preclude examination by immigration officers in conducting what the Supreme Court called "the preliminary sifting process" to determine whether a citizenship claim is properly substantiated. Upon an adverse determination the claimant is barred from the United States. The decision of the immigration officers is subject only to the same limited court review as to legality and fairness of the hearing that prevails in regard to other immigration determinations. Persons whose claims to American citizenship were rejected in deportation proceedings were held entitled to an independent judicial determination of their citizenship status.

The Nationality Act of 1940 established a new right to bring an action for a declaratory judgment determining a claim to American citizenship. It provided that a person outside the United States whose application for a passport was rejected could obtain a certificate of identity, upon showing that he had a bona fide claim, which would enable him to come to the United States for the purpose of prosecuting his action for a declaratory judgment. He also was given a right to appeal to the Secretary of State if he were refused a certificate of identity (see Chapter 11).

The Passport Division of the Department of State has supplied the information that since 1945 and through September 1952, a total of 1,346 suits for such declaratory judgment were instituted against the Secretary of State. Of these, 855 claimants came from China (generally involving claims to citizenship derived through American parents), and 491 from other countries (preponderantly involving questions of whether American citizens had lost United States citizenship through expatriation).

The administrative authorities have stated that many persons were using the declaratory judgment device as a means of improperly obtaining entry into the United States. However, in such proceedings courts often have considered only the evidence of the claimant and not the countervailing evidence compiled by administrative officers both here and abroad.

The act of 1952 made substantial revisions in the declaratory judgment procedure in the Nationality Act of 1940. Persons who are within the United States may still maintain an action for a judgment declaring them to be nationals of the United States, except that such suits may not be maintained when the citizenship claim previously was adjudicated in an exclusion proceeding. Persons whose claim to

American citizenship is denied by an agency of the United States Government but who are not within the United States may apply for a certificate of identity to come to the United States to attempt to establish their claim. Such a certificate of identity may be issued upon a finding that the application is made in good faith and is made on a substantial basis. The applicant is entitled to an appeal to the Secretary of State from a denial of application for a certificate of identity. However, a certificate of identity may be granted only to a person who previously has been physically present in the United States, or to a person under 16 years of age who was born abroad to a United States citizen parent. A person who receives a certificate of identity may proceed to the United States and apply for admission at a port of entry, where his status is determined by immigration officers. If such officers rule against his claim to American citizenship he is entitled to judicial review only in habeas corpus proceedings and not through any other form of action.

The fact that some claimants have abused their privileges does not seem to warrant a blanket deprivation of protection to an American citizen who happens to be outside the United States. If there are abuses, such abuses should be corrected. No American citizen should be deprived of his day in court to support his claim against unjustified challenge. The limitations of the 1952 act will shut off from many American citizens the opportunity to invoke the aid of the courts in resisting erroneous denials of their rights of citizenship.

The Commission believes that there should be opportunity for a full court review on issues of United States citizenship, even where the citizenship claim is made by a person seeking entry to the United States.

On such review, the court should consider the evidence available to the administrative officers.

Additional Matters for Consideration

The brief time at the Commission's disposal made it impossible to give detailed study to many matters brought to its attention during the course of the hearings, and subsequently in oral or written communications. The Commission's primary concern was with broad questions of policy affecting the more important phases of immigration and naturalization.

The Commission has made an effort to discuss such other problems as in its judgment warranted treatment in this Report. It has collected a wealth of information, most of which is incorporated in the printed record of its hearings.

If the Commission's recommendations should be favorably received, the next step will be the preparation of a bill to carry them into effect. The draftsmen must then assume the task of designing the legislative details of the recommendations and of determining what, if anything, should be done about the matters which the Commission was unable to reach. **The Commission hopes that the President, or the appropriate committees of Congress, or perhaps by a joint arrangement, will form a group to draft a bill for early consideration by Congress.**

The Commission suggests that additional consideration should be given, among others, to the following matters:

THE ROLE OF THE VOLUNTARY AGENCIES

The great American voluntary agencies have played an important and increasing role in immigration matters. Nongovernmental organizations representing the principal faiths in the United States, nationality groups, social service and civic agencies, and others are taking part in the process of identifying and selecting aliens overseas for immigration to the United States and obtaining sponsorships and resettlement opportunities for them in the United States. Their activities touch upon immigration at all stages, and involve close cooperation with consular officers overseas, immigration and customs officials at the ports of entry, and public and private agencies seeking to aid the effective integration of the new American to his new life.

During the past several decades, the American voluntary agencies have been particularly concerned with the problems caused by war. The conclusion of World War II left a vast, homeless mass of refugees

and displaced persons in Europe. The United States made an important contribution to the solution of this unfinished business of World War II by helping to form the International Refugee Organization and by accepting a share of such refugees and displaced persons under the Displaced Persons Act. The American voluntary agencies took an active part in providing supplementary food and clothing, and other necessities of life, for refugees, displaced persons, expellees, escapees, and other victims of the war and postwar upheavals. From this, their interests expanded to the attempt to help with a permanent solution of the problem, both in integration of such persons into the local economies of the countries where they resided, and by emigration elsewhere for a new start in life.

Perhaps the greatest flowering of this new and important activity took place in the Displaced Persons program. In its final report, *The DP Story*, the Displaced Persons Commission says:

> The American voluntary agencies played an indispensable part in the success of the DP program. . . . Without their continuous and active participation, the program would never have been able to succeed.

The voluntary agencies were one of the main ways in which recent immigration programs to the United States became instruments of positive, constructive, and humanitarian national policy. **In the kind of an immigration policy envisaged by the Commission, the American voluntary agencies must continue to play an increasing role.**

The precise form of the relationship between the Government, in administering the immigration law, and the American voluntary agencies, in providing supplementary and complementary services, needs to be developed more fully. The part to be played by the voluntary agencies in connection with overseas selection of prospective immigrants; their transportation, reception, distribution, and resettlement; and the subsequent responsibility within the United States, are all important factors for determination.

Until some of the issues raised by the Commission's recommendations are resolved, it may not be fruitful to attempt a final determination of these other issues. However, the Commission believes that they are of utmost importance and should be reached as soon as possible. The Commission suggests that in the determination of such questions, the fundamental objective should be the most effective joint utilization of public and private effort and resources in developing and administering our immigration laws.

INVESTIGATIONS

The suggestion has been made to the Commission that the investigating responsibilities of the Immigration and Naturalization Serv-

ice, particularly insofar as they deal with subversive activities, be transferred to the Federal Bureau of Investigation. As of October 15, 1952, the Immigration and Naturalization Service had an authorized force of 7,204 of whom 907 were assigned to investigations.

The Federal Bureau of Investigation has responsibility for the protection of the internal security of the United States except where the entry or deportation of aliens is involved, in which case the Immigration and Naturalization Service has the responsibility. The advisability of placing all such investigative functions in one agency has been discussed frequently. There should be a review of the question of responsibility for immigration investigations, especially in view of the Commission's proposal for a consolidated immigration agency.

MIGRANT LABOR

One of the most troublesome problems arising out of the administration of the immigration laws concerns the hundreds of thousands of "wetbacks" who illegally cross the border from Mexico each year. Because of the recent survey by the President's Commission on Migratory Labor, this problem was not studied by the Commission, although some of the witnesses at the Commission's hearings addressed themselves to this question and urged that adequate appropriations be provided by Congress to insure maximum effectiveness in administering the immigration laws.

PROCEDURAL PROBLEMS

Witnesses during the Commission's hearings called attention to particular procedures or requirements, which would seem to be worthy of further study. A few examples are:

1. The requirement that the Immigration and Naturalization Service establish a centralized list of all aliens admitted to the United States. The Attorney General of the United States testified that this requirement would place a heavy burden on enforcement officials.

2. The apparent error, pointed out in the testimony of the Immigration and Naturalization Service, by which the act of 1952 in effect eliminates the proceedings for registry of lawful entry of aliens who entered the United States prior to July 1, 1924, although the new act continues to provide for such proceedings. This occurred through the enactment of the provision of the act of 1952 which retroactively made all such aliens subject to deportation, and thus automatically disqualified them from the benefits provided by the registry statute. This error should be corrected.

3. The procedure for selecting persons with special skills in granting preferred status under the established quotas. It was said that

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this procedure is dilatory and ineffective, and may defeat the purpose for which it is established.

The regulations issued by the Immigration and Naturalization Service confirm the prediction of that Service to the Commission that this provision would be troublesome and difficult. In this connection, as elsewhere indicated (Chapter 12), the Commission suggests that study be given to the proposals to restore the contract labor prohibition eliminated by the act of 1952.

4. The provision of the law for rescission, without a hearing, of suspension of deportation previously granted, upon a finding that it was improperly granted.

5. The adequacy of notice by publication in proceedings to revoke naturalization or to cancel citizenship documents.

6. The problem of travel documents. The Office of the United Nations High Commissioner for Refugees called attention to the difficulties encountered by stateless refugees or displaced persons who are unable to obtain official travel documents. It was suggested that the United States issue a travel document to such lawfully resident aliens.

LEGAL PROBLEMS

Certain difficulties may involve constitutional issues.

1. The Attorney General of the United States called attention to the reenactment in the act of 1952 of a criminal provision relating to transporting into or harboring within the United States of certain aliens, which a United States district court had declared void for vagueness. He urged that this provision be clarified.

2. The failure to grant a hearing when a deportable alien claims he will be subjected to physical persecution in the country to which he was being deported. It was said that the failure to grant a formal hearing is unfair.

3. The authorization for conducting a deportation hearing in the absence of the alien, if it is found that he unreasonably fails or refuses to attend or remain in attendance at the hearing.

BUSINESS PROBLEMS

Various representatives of important business enterprises criticized provisions of the act of 1952 as being contrary to national commercial objectives in the interest of the United States.

1. Representatives of maritime and air lines brought to the Commission's attention various alleged inequities of the immigration laws in imposing on them obligations for detention and deportation costs,

and in subjecting them to penalties for violations of the immigration laws by their passengers.

They also called attention to other provisions which they regard as being detrimental to the proper flow of international trade and commerce.

2. Shipping representatives protested the procedure for individual examination of alien seamen under the new law. It was said that this would create additional financial burdens and would unnecessarily hamper maritime operations. The Governments of Great Britain and France formally objected to the Department of State that this requirement would cause serious delay in the operation of ocean liners, great expense and deterioration of service to passengers.

3. A new requirement in the 1952 act apparently requires a $10 fee for each worker who is permitted to enter for temporary work. The Immigration and Naturalization Service pointed out to the Commission that this provision would put a heavy, and apparently unintended, burden upon employers who import thousands of temporary seasonal workers for timber cutting, fruit and vegetable harvesting, processing, and canning.

Part VI

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

The immigration and nationality law embodies policies and principles that are unwise and injurious to the nation.

It rests upon an attitude of hostility and distrust against all aliens.

It applies discriminations against human beings on account of national origin, race, creed and color.

It ignores the needs of the United States in domestic affairs and foreign policies.

It contains unnecessary and unreasonable restrictions and penalties against individuals.

It is badly drafted, confusing and in some respects unworkable.

It should be reconsidered and revised from beginning to end.

Recommendations

Throughout this Report are various recommendations, appearing in the chapters in which particular subjects are discussed. The more important ones are briefly restated here, without reference to the order in which they appear elsewhere:

The Quota System

1. **The national origins quota system should be abolished.**
2. **There should be a unified quota system, which would allocate visas without regard to national origin, race, creed, or color.**
3. **The maximum annual quota immigration should be one-sixth of 1 percent of the population of the United States, as determined by the most recent census. Under the 1950 census, quota immigration would be open to 251,162 immigrants annually, instead of the 154,657 now authorized.**
4. **All immigration and naturalization functions now in the Department of State and the Department of Justice should be consolidated into a new agency, to be headed by a Commission on Immigration and Naturalization whose members should be appointed by the President and confirmed by the Senate.**
5. **The maximum annual quota of visas should be distributed, as determined by the proposed Commission on Immigration and Naturalization, on the basis of the following five categories:**

The Right of Asylum
Reunion of Families
Needs in the United States
Special Needs in the Free World
General Immigration

6. For the next three years, within the maximum annual quota, there should be a statutory priority, implementing the Right of Asylum, for the admission annually of 100,000 refugees, expellees, escapees, and remaining displaced persons.

7. The allocation of visas within the maximum annual quota should be determined, once every 3 years, by the proposed Commission on Immigration and Naturalization, subject to review by the President and the Congress.

Fair Hearings and Procedure

8. Enforcement functions should be exercised, under the Commission's supervision and control, by an Administrator. Quasi-judicial functions should be exercised, under the Commission's supervision, by a statutory Board of Immigration and Visa Appeals.

9. The same officials should not be permitted to exercise both enforcement and judicial functions. Aliens should be accorded a fair hearing and procedure in exclusion and deportation cases. Hearings in deportation cases should conform with the requirements of the Administrative Procedure Act. Hearing officers should be responsible only to the proposed Board of Immigration and Visa Appeals, which should have authority to exercise final administrative review of their decisions, subject to further review in limited cases by the Commission. Aliens should have a right of administrative review, before the Board of Immigration and Visa Appeals, from denials of visas; and have a clearly defined method of seeking court review of orders of deportation.

Admissions and Deportations

10. The conditions for admission of aliens into the United States should

bear a reasonable relationship to the national welfare and security;

be definite in their meaning and application;

include discretionary authority to waive specified grounds of inadmissibility, in meritorious cases;

provide for exclusions without hearing, for reasons of security, only upon direction of the Board of Immigration and Visa Appeals; and

not be based on the so-called criminal judgments of totalitarian states.

11. The grounds for deportation of aliens already in the United States should

bear a reasonable relationship to the national welfare and security; not be technical or excessive;

not be retroactive so as to penalize aliens for acts which were not prohibited when committed; and

not require the deportation of aliens who entered the country at an early age, or those who have been residents for such a long period as to become the responsibility of the United States.

12. In connection with the deportation of aliens, there should be discretionary authority to

allow them to depart voluntarily instead of deportation;

adjust their status within the United States if they are currently qualified to reenter;

suspend deportation under reasonable conditions; and

adjust the status of bona fide official defectors from totalitarianism.

13. A resident alien who is not otherwise deportable should not, by reason of a brief absence from the United States, be subject to exclusion or deportation.

14. Unless proceedings for deportation and denaturalization are brought within ten years, they should be barred.

15. Arrangements should be made to expedite the processing of visas for temporary visitors, including leaders in art, scientific and business fields, and the law should apply to such nonimmigrant aliens only such restrictions as are directly concerned with the health, safety, and security of the United States.

Security

16. The security of the United States should be protected by continuing to bar the entry of spies and saboteurs.

Aliens who are present members or affiliates of any totalitarian party, including Communists, Nazis, and Fascists, should be denied admission into the United States except where their

membership is involuntary; or

affiliations is not knowingly or willingly to further the aims and principles of such parties.

They should be deported except where they

entered the United States at an early age or have been residents for such a long period of time as to have become the responsibility of the United States.

Aliens who are former members or affiliates of any totalitarian party may be admitted provided

they have repudiated and are now opposed to such totalitarian ideologies; and

the responsible administrative officers make a finding that the admission of such aliens would not be contrary to the public interest.

They should be deported unless

they have repudiated such doctrines for at least five years.

Citizenship

17. The law should not discriminate against naturalized citizens but should place them in the same status as native-born citizens, except where citizenship was procured by fraud or illegality. The law should minimize or remove restrictions which create statelessness, disrupt family unity, or impose unreasonable conditions or procedures upon the acquisition or retention of citizenship.

APPENDIXES

ADDITIONAL VIEWS OF ADRIAN S. FISHER

I concur wholeheartedly in the policy recommendations in the report of the President's Commission on Immigration and Naturalization. I believe that their prompt adoption would be in the interest of the United States, both in the conduct of its foreign relations and in the continued vigorous growth and development of its economy and its society. However, in only one small aspect of the report, that dealing with the administrative arrangements for the issuance of visas overseas, I cannot see eye to eye with my colleagues.

The Report proposes to set up, in effect, another separate foreign service by authorizing the Administrator of Immigration and Naturalization to set up visa offices overseas as part of the unified program. In view of the importance which the report places on the foreign policy of the United States, a view in which I wholly concur, I cannot see what is to be gained by separating the administration of the proposed program from the agency which is charged with the administration of the foreign policy of the United States. It may well be that the Department of State is subject to legitimate criticism in its activities under the present system for not having paid enough attention to the foreign policy aspects of the administration of the visa issuing function. But in my judgment the remedy for that defect is not to be found in divorcing it entirely from this function. It may well be true that in its administration of the visa function overseas the Department of State has relied excessively upon "experts;" that is, persons who spend a large proportion of their time doing nothing but visa work. If the Department, however, has erred in this respect, this tendency should be corrected, not accentuated, and the participation in the visa function of officers who have an over-all responsibility for the conduct of foreign relations should be encouraged, not made impossible.

The same can be said with reference to the problem of placing an additional group of United States officials in foreign countries to represent the United States of America. I am aware that my colleagues are led to their concept of administration by their view that a visa once issued should be final, and not subject to review at the port of entry except for identity, physical condition, and security status. From this they deduce, by the maxim of "No responsibility without authority," the conclusion that the visa issuing function must in turn be under the proposed commission. I wholly agree that a visa once

issued should be final and not subject to review at the port of entry except for identity, physical condition, and security status. I wholly agree also that there should be an independent Commission on Immigration and Naturalization. I am completely in accord with the recommendation that there should be a formal procedure for review of consular decisions with respect to visas. However, I do not agree that these desirable ends require that persons other than consular officers should issue the visas.

I am reinforced in this view by the fact that in over 200 Foreign Service posts there is not an adequate work-load of visa cases to justify the establishment of a separate visa office. My examination of the statistics shows that almost 50 percent of all visas are issued in posts of this kind. The proposed solution—that is, to have the consul, in effect, act as a hearing officer but without any power of decision, even in a clear case—does not seem to me to be a satisfactory one. Certainly it does not seem to be satisfactory to have two separate systems, one disposing of 53 percent of the visas and the other disposing of 47 percent.

I believe the proposed Commission should avail itself of the very real advantages in using the Foreign Service to accomplish its requirements abroad, as do some 45 United States Government agencies at the present time. The proposed Commission would thus have a widespread, flexible, operating service with the particular advantage of utilizing its broad experience in foreign affairs. This experience will be invaluable in evaluating the intent of the alien, and his social, economic, and political background, and in estimating the effect of the alien's admission to the United States upon our foreign relations and domestic security and development.

The proposed Commission would have the same responsibility and authority, the same freedom in the issuance of substantive guidance and direction as it would enjoy with its own employees. It could participate with other government agencies, under procedures now established under the Foreign Service Act of 1946, in the selection, training, assignment, and promotion of Foreign Service personnel, and could participate in the day to day administration of the Service by the Department of State to the extent necessary to meet its requirements.

Except for this single administrative detail, I am in complete accord with the Commission's conclusions and recommendations.

Order Creating the Commission

EXECUTIVE ORDER
10392

ESTABLISHING THE PRESIDENT'S COMMISSION ON IMMIGRATION AND NATURALIZATION

By virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SEC. 1. There is hereby established in the Executive Office of the President a commission to be known as the President's Commission on Immigration and Naturalization, which shall be composed of a chairman, a vice chairman, and five other members, all of whom shall be designated by the President.

SEC. 2. The Commission is authorized and directed to make a survey and evaluation of the immigration and naturalization policies of the United States, and shall make recommendations to the President for such legislative, administrative, or other action as in its opinion may be desirable in the interests of the economy, security, and responsibilities of this country. The Commission shall give particular consideration to:

(*a*) The requirements and administration of our immigration laws with respect to the admission, naturalization and denaturalization of aliens, and their exclusion and deportation,

(*b*) The admission of immigrants into this country in the light of our present and prospective economic and social conditions and of other pertinent considerations; and

(*c*) The effect of our immigration laws and their administration, including the national origin quota system, on the conduct of the foreign policies of the United States, and the need for authority to meet emergency conditions such as the present overpopulation of parts of Western Europe and the serious refugee and escapee problems in such areas.

SEC. 3. In performing its functions under this order, the Commission may prescribe such rules of procedure, and may hold such public hearings and hear such witnesses as it may deem appropriate.

SEC. 4. All executive departments and agencies of the Federal Government are authorized and directed to cooperate with the Commission in its work and to furnish the Commission such assistance, not

inconsistent with law, as it may require in the performance of its functions.

SEC. 5. The expenditures of the Commission shall be paid out of an allotment made by the President from the appropriation entitled "Emergency Fund for the President—National Defense" in Title I of the Independent Offices Appropriation Act, 1953 (Public Law 455, 82d Cong.), approved July 5, 1952. Such payments shall be made without regard to the provisions of (*a*) section 3681 of the Revised Statutes (31 U. S. C. 672), (*b*) section 9 of the act of March 4, 1909, 35 Stat. 1027 (31 U. S. C. 673), and (*c*) such other laws as the President may hereafter specify. The members of the Commission shall receive such compensation and expense allowances, payable out of the said allotment, as the President shall hereafter fix, except that no compensation shall be so fixed with respect to any person while receiving other compensation from the United States.

SEC. 6. The Commission shall make a final written report to the President not later than January 1, 1953, including its recommendations for legislative, administrative or other action. The Commission may also make such earlier reports to the President as it may deem appropriate. The Commission shall cease to exist 30 days after rendition of its final report to the President.

HARRY S. TRUMAN.

THE WHITE HOUSE, *September 4, 1952.*

SEPTEMBER 4, 1952.

STATEMENT BY THE PRESIDENT

I have today established a special Commission on Immigration and Naturalization, to study and evaluate the immigration and naturalization policies of the United States.

Our immigration and naturalization policies are of major importance to our own security and to the defense of the free world. Immediately after the war ended, we recognized the plight of the displaced persons; we acted to cooperate with other nations and to admit a share of these victims of war and tyranny into our own country. The displaced-persons program has now been successfully concluded, but the free world faces equally grave and equally heartrending problems in the continual stream of refugees and escapees from the iron-curtain countries into Western Europe. These people add to the pressures of overpopulation in certain countries. Overseas migration from Europe has been dammed up by years of war and international economic disorder. While we have joined with other nations to meet such problems as these, our own immigration laws based on conditions and assumptions that have long ceased to exist, present serious obstacles in reaching a satisfactory solution.

Humanitarian considerations, as well as the national interest, require that we reassess our immigration policies in the light of these facts. The United States must remain true to its great traditions and have an immigration policy that strengthens our Nation at home and furthers our world leadership.

The Eighty-second Congress devoted much time and effort to this problem, but the bill which it passed was so defective in many important provisions that I could not give it my approval. In my veto message, I expressed the hope that the Congress would agree to a careful reexamination of the entire matter. I suggested that the Congress create a representative commission of outstanding Americans to make a study of the basic assumptions of our immigration policy, the quota system and all that goes into it, the effect of our immigration and nationality laws, and the ways in which they can be brought into line with our national ideals and our foreign policy. The Congress did not act upon these suggestions.

I do not believe that the matter should remain where the Congress left it. The problems of immigration policy grow more pressing, and the inequities fostered by the new law require careful examination. I am, therefore, appointing this Commission in the belief that its recommendations will enable the next Congress to consider the subject promptly and intelligently. This Commission will have the benefit of much information already drawn together in the field of immigration, including that developed by the committees of Congress in their long study of the problem. It should, therefore, be in a position to complete its study before the reconvening of the next Congress.

I have directed the Commission to give particular consideration to:

(*a*) The requirements and administration of our immigration laws with respect to the admission, naturalization, and denaturalization of aliens, and their exclusion and deportation;

(*b*) The admission of immigrants into this country in the light of our present and prospective economic and social conditions and of other pertinent considerations; and

(*c*) The effect of our immigration laws, and their administration, including the national origin quota system, on the conduct of the foreign policies of the United States, and the need for authority to meet emergency conditions such as the present overpopulation of parts of Western Europe and the serious refugee and escapee problems in such areas.

The members of the Commission are as follows:

Philip B. Perlman of Maryland, Chairman. (Formerly, Solicitor General of the United States, formerly city solicitor of Baltimore, secretary of the State of Maryland, assistant attorney general of Maryland.)

Earl G. Harrison of Pennsylvania, Vice Chairman. (Attorney, formerly United States Commissioner of Immigration and Naturalization—and formerly Dean of the Law School of the University of Pennsylvania.)

Monsignor John O'Grady of Washington, D. C. (Secretary, National Conference of Catholic Charities.)

Rev. Thaddeus F. Gullixson of Minnesota. (President, Lutheran Theological Seminary of St. Paul, Minnesota; Chairman, Minnesota State Displaced Persons Commission.)

Clarence E. Pickett of Pennsylvania. (Honorary secretary, American Friends Service Committee.)

Adrian S. Fisher of Tennessee. (Legal Advisor to State Department, formerly General Counsel of Atomic Energy Commission and Solicitor of the Department of Commerce.)

Thomas G. Finucane of Maryland. (Chairman, Board of Immigration Appeals, Department of Justice.)

The President's Veto Message

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

RETURNING

WITHOUT APPROVAL THE BILL (H. R. 5678) TO REVISE THE LAWS RELATING TO IMMIGRATION AND NATIONALITY, AND FOR OTHER PURPOSES

JUNE 25, 1952.—Ordered to be printed

To the House of Representatives:

I return herewith, without my approval, H. R. 5678, the proposed Immigration and Nationality Act.

In outlining my objections to this bill, I want to make it clear that it contains certain provisions that meet with my approval. This is a long and complex piece of legislation. It has 164 separate sections, some with more than 40 subdivisions. It presents a difficult problem of weighing the good against the bad, and arriving at a judgment on the whole.

H. R. 5678 is an omnibus bill which would revise and codify all of our laws relating to immigration, naturalization, and nationality.

A general revision and modernization of these laws unquestionably is needed and long overdue, particularly with respect to immigration. But this bill would not provide us with an immigration policy adequate for the present world situation. Indeed, the bill, taking all its provisions together, would be a step backward and not a step forward. In view of the crying need for reform in the field of immigration, I deeply regret that I am unable to approve H. R. 5678.

In recent years our immigration policy has become a matter of major national concern. Long dormant questions about the effect of our immigration laws now assume first-rate importance. What we do in the field of immigration and naturalization is vital to the continued growth and internal development of the United States—to the economic and social strength of our country—which is the core of the defense of the free world. Our immigration policy is equally, if not more, important to the conduct of our foreign relations and to our responsibilities of moral leadership in the struggle for world peace.

In one respect, this bill recognizes the great international significance of our immigration and naturalization policy, and takes a step to improve existing laws. All racial bars to naturalization would be removed, and at least some minimum immigration quota would be afforded to each of the free nations of Asia.

I have long urged that racial or national barriers to naturalization be abolished. This was one of the recommendations in my civil-rights message to the Congress on February 2, 1948. On February 19, 1951, the House of Representatives unanimously passed a bill to carry it out.

But now this most desirable provision comes before me embedded in a mass of legislation which would perpetuate injustices of long standing against many other nations of the world, hamper the efforts we are making to rally the men of the east and west alike to the cause of freedom, and intensify the repressive and inhumane aspects of our immigration procedures. The price is too high and, in good conscience, I cannot agree to pay it.

I want all our residents of Japanese ancestry, and all our friends throughout the Far East, to understand this point clearly. I cannot take the step I would like to take, and strike down the bars that prejudice has erected against them, without, at the same time, establishing new discriminations against the peoples of Asia and approving harsh and repressive measures directed at all who seek a new life within our boundaries. I am sure that with a little more time and a little more discussion in this country the public conscience and the good sense of the American people will assert themselves, and we shall be in a position to enact an immigration and naturalization policy that will be fair to all.

In addition to removing racial bars to naturalization, the bill would permit American women citizens to bring their alien husbands to this country as nonquota immigrants, and enable alien husbands of resident women aliens to come in under the quota in a preferred status. These provisions would be a step toward preserving the integrity of the family under our immigration laws, and are clearly desirable.

The bill would also relieve transportation companies of some of the unjustified burdens and penalties now imposed upon them. In particular, it would put an end to the archaic requirement that carriers pay the expenses of aliens detained at the port of entry, even though such aliens have arrived with proper travel documents.

But these few improvements are heavily outweighed by other provisions of the bill which retain existing defects in our laws, and add many undesirable new features.

The bill would continue, practically without change, the national origins quota system, which was enacted into law in 1924, and put

into effect in 1929. This quota system—always based upon assumptions at variance with our American ideals—is long since out of date and more than ever unrealistic in the face of present world conditions.

This system hinders us in dealing with current immigration problems, and is a constant handicap in the conduct of our foreign relations. As I stated in my message to Congress on March 24, 1952, on the need for an emergency program of immigration from Europe:

> Our present quota system is not only inadequate to meet present emergency needs, it is also an obstacle to the development of an enlightened and satisfactory immigration policy for the long-run future.

The inadequacy of the present quota system has been demonstrated since the end of the war, when we were compelled to resort to emergency legislation to admit displaced persons. If the quota system remains unchanged, we shall be compelled to resort to similar emergency legislation again, in order to admit any substantial portion of the refugees from communism or the victims of overcrowding in Europe.

With the idea of quotas in general there is no quarrel. Some numerical limitation must be set, so that immigration will be within our capacity to absorb. But the over-all limitation of numbers imposed by the national origins quota system is too small for our needs today, and the country-by-country limitations create a pattern that is insulting to large numbers of our finest citizens, irritating to our allies abroad, and foreign to our purposes and ideals.

The over-all quota limitation, under the law of 1924, restricted annual immigration to approximately 150,000. This was about one-seventh of 1 percent of our total population in 1920. Taking into account the growth in population since 1920, the law now allows us but one-tenth of 1 percent of our total population. And since the largest national quotas are only partly used, the number actually coming in has been in the neighborhood of one-fifteenth of 1 percent. This is far less than we must have in the years ahead to keep up with the growing needs of our Nation for manpower to maintain the strength and vigor of our economy.

The greatest vice of the present quota system, however, is that it discriminates, deliberately and intentionally, against many of the peoples of the world. The purpose behind it was to cut down and virtually eliminate immigration to this country from Southern and Eastern Europe. A theory was invented to rationalize this objective. The theory was that in order to be readily assimilable, European immigrants should be admitted in proportion to the numbers of persons of their respective national stocks already here as shown by the census of 1920. Since Americans of English, Irish, and German descent were most numerous, immigrants of those three nationalities

got the lion's share—more than two-thirds—of the total quota. The remaining third was divided up among all the other nations given quotas.

The desired effect was obtained. Immigration from the newer sources of Southern and Eastern Europe was reduced to a trickle. The quotas allotted to England and Ireland remained largely unused, as was intended. Total quota immigration fell to a half or a third—and sometimes even less—of the annual limit of 154,000. People from such countries as Greece or Spain or Latvia were virtually deprived of any opportunity to come here at all, simply because Greeks or Spaniards or Latvians had not come here before 1920 in any substantial numbers.

The idea behind this discriminatory policy was, to put it baldly, that Americans with English or Irish names were better people and better citizens than Americans with Italian or Greek or Polish names. It was thought that people of West European origin made better citizens than Rumanians or Yugoslavs or Ukrainians or Hungarians or Balts or Austrians. Such a concept is utterly unworthy of our traditions and our ideals. It violates the great political doctrine of the Declaration of Independence that "all men are created equal." It denies the humanitarian creed inscribed beneath the Statue of Liberty proclaiming to all nations, "Give me your tired, your poor, your huddled masses yearning to breathe free."

It repudiates our basic religious concepts, our belief in the brotherhood of man, and in the words of St. Paul that "there is neither Jew nor Greek, there is neither bond nor free, . . . for ye are all one in Christ Jesus."

The basis of this quota system was false and unworthy in 1924. It is even worse now. At the present time this quota system keeps out the very people we want to bring in. It is incredible to me that, in this year of 1952, we should again be enacting into law such a slur on the patriotism, the capacity, and the decency of a large part of our citizenry.

Today, we have entered into an alliance, the North Atlantic Treaty, with Italy, Greece, and Turkey against one of the most terrible threats mankind has ever faced. We are asking them to join with us in protecting the peace of the world. We are helping them to build their defenses, and train their men, in the common cause. But, through this bill we say to their people: You are less worthy to come to this country than Englishmen or Irishmen; you Italians, who need to find homes abroad in the hundreds of thousands—you shall have a quota of 5,645; you Greeks, struggling to assist the helpless victims of a Communist civil war—you shall have a quota of 308; and you Turks, you are brave defenders of the eastern flank, but you shall have a quota of only 225.

Today, we are "protecting" ourselves as we were in 1924, against being flooded by immigrants from Eastern Europe. This is fantastic. The countries of Eastern Europe have fallen under the Communist yoke—they are silenced, fenced off by barbed wire and minefields—no one passes their borders but at the risk of his life. We do not need to be protected against immigrants from these countries—on the contrary, we want to stretch out a helping hand, to save those who have managed to flee into Western Europe, to succor those who are brave enough to escape from barbarism, to welcome and restore them against the day when their countries will, as we hope, be free again. But this we cannot do, as we would like to do, because the quota for Poland is only 6,500, as against the 138,000 exiled Poles, all over Europe, who are asking to come to these shores; because the quota for the now subjugated Baltic countries is little more than 700—against the 23,000 Baltic refugees imploring us to admit them to a new life here; because the quota for Rumania is only 289, and some 30,000 Rumanians, who have managed to escape the labor camps and the mass deportations of their Soviet masters, have asked our help. These are only a few examples of the absurdity, the cruelty of carrying over into this year of 1952 the isolationist limitations of our 1924 law.

In no other realm of our national life are we so hampered and stultified by the dead hand of the past, as we are in this field of immigration. We do not limit our cities to their 1920 boundaries—we do not hold our corporations to their 1920 capitalizations—we welcome progress and change to meet changing conditions in every sphere of life, except in the field of immigration.

The time to shake off this dead weight of past mistakes is now. The time to develop a decent policy of immigration—a fitting instrument for our foreign policy and a true reflection of the ideals we stand for, at home and abroad—is now. In my earlier message on immigration, I tried to explain to the Congress that the situation we face in immigration is an emergency—that it must be met promptly. I have pointed out that in the last few years, we have blazed a new trail in immigration, through our displaced persons program. Through the combined efforts of the Government and private agencies, working together not to keep people out, but to bring qualified people in, we summoned our resources of good will and human feeling to meet the task. In this program we have found better techniques to meet the immigration problems of the 1950's.

None of this fruitful experience of the last 3 years is reflected in this bill before me. None of the crying human needs of this time of trouble is recognized in this bill. But it is not too late. The Congress can remedy these defects, and it can adopt legislation to meet the most critical problems before adjournment.

The only consequential change in the 1924 quota system which the bill would make is to extend a small quota to each of the countries of Asia. But most of the beneficial effects of this gesture are offset by other provisions of the bill. The countries of Asia are told in one breath that they shall have quotas for their nationals, and in the next that the nationals of the other countries, if their ancestry is as much as 50 percent Asian, shall be charged to these quotas.

It is only with respect to persons of oriental ancestry that this invidious discrimination applies. All other persons are charged to the country of their birth. But persons with Asian ancestry are charged to the countries of Asia, wherever they may have been born, or however long their ancestors have made their homes outside the land of their origin. These provisions are without justification.

I now wish to turn to the other provisions of the bill, those dealing with the qualifications of aliens and immigrants for admission, with the administration of the laws, and with problems of naturalization and nationality. In these provisions, too, I find objections that preclude my signing this bill.

The bill would make it even more difficult to enter our country. Our resident aliens would be more easily separated from homes and families under grounds of deportation, both new and old, which would specifically be made retroactive. Admission to our citizenship would be made more difficult; expulsion from our citizenship would be made easier. Certain rights of native-born, first-generation Americans would be limited. All our citizens returning from abroad would be subjected to serious risk of unreasonable invasions of privacy. Seldom has a bill exhibited the distrust evidenced here for citizens and aliens alike—at a time when we need unity at home and the confidence of our friends abroad.

We have adequate and fair provisions in our present law to protect us against the entry of criminals. The changes made by the bill in those provisions would result in empowering minor immigration and consular officials to act as prosecutor, judge, and jury in determining whether acts constituting a crime have been committed. Worse, we would be compelled to exclude certain people because they have been convicted by "courts" in Communist countries that know no justice. Under this provision, no matter how construed, it would not be possible for us to admit many of the men and women who have stood up against totalitarian repression and have been punished for doing so. I do not approve of substituting totalitarian vengeance for democratic justice. I will not extend full faith and credit to the judgments of the Communist secret police.

The realities of a world, only partly free, would again be ignored in the provision flatly barring entry to those who made misrepresenta-

tions in securing visas. To save their lives and the lives of loved ones still imprisoned, refugees from tyranny sometimes misstate various details of their lives. We do not want to encourage fraud. But we must recognize that conditions in some parts of the world drive our friends to desperate steps. An exception restricted to cases involving misstatement of country of birth is not sufficient. And to make refugees from oppression forever deportable on such technical grounds is shabby treatment indeed.

Some of the new grounds of deportation which the bill would provide are unnecessarily severe. Defects and mistakes in admission would serve to deport at any time because of the bill's elimination, retroactively as well as prospectively, of the present humane provision barring deportations on such grounds 5 years after entry. Narcotic-drug addicts would be deportable at any time, whether or not the addiction was culpable, and whether or not cured. The threat of deportation would drive the addict into hiding beyond the reach of cure, and the danger to the country from drug addiction would be increased.

I am asked to approve the reenactment of highly objectionable provisions now contained in the Internal Security Act of 1950—a measure passed over my veto shortly after the invasion of South Korea. Some of these provisions would empower the Attorney General to deport any alien who has engaged or has had a purpose to engage in activities "prejudicial to the public interest" or "subversive to the national security." No standards or definitions are provided to guide discretion in the exercise of powers so sweeping. To punish undefined "activities" departs from traditional American insistence on established standards of guilt. To punish an undefined "purpose" is thought control.

These provisions are worse than the infamous Alien Act of 1798, passed in a time of national fear and distrust of foreigners, which gave the President power to deport any alien deemed "dangerous to the peace and safety of the United States." Alien residents were thoroughly frightened and citizens much disturbed by that threat to liberty.

Such powers are inconsistent with our democratic ideals. Conferring powers like that upon the Attorney General is unfair to him as well as to our alien residents. Once fully informed of such vast discretionary powers vested in the Attorney General, Americans now would and should be just as alarmed as Americans were in 1798 over less drastic powers vested in the President.

Heretofore, for the most part, deportation and exclusion have rested upon findings of fact made upon evidence. Under this bill, they would rest in many instances upon the "opinion" or "satisfaction" of immi-

gration or consular employees. The change from objective findings to subjective feelings is not compatible with our system of justice. The result would be to restrict or eliminate judicial review of unlawful administrative action.

The bill would sharply restrict the present opportunity of citizens and alien residents to save family members from deportation. Under the procedures of present law, the Attorney General can exercise his discretion to suspend deportation in meritorious cases. In each such case, at the present time, the exercise of administrative discretion is subject to the scrutiny and approval of the Congress. Nevertheless, the bill would prevent this discretion from being used in many cases where it is now available, and would narrow the circle of those who can obtain relief from the letter of the law. This is most unfortunate, because the bill, in its other provisions, would impose harsher restrictions and greatly increase the number of cases deserving equitable relief.

Native-born American citizens who are dual nationals would be subjected to loss of citizenship on grounds not applicable to other native-born American citizens. This distinction is a slap at millions of Americans whose fathers were of alien birth.

Children would be subjected to additional risk of loss of citizenship. Naturalized citizens would be subjected to the risk of denaturalization by any procedure that can be found to be permitted under any State law or practice pertaining to minor civil-law suits. Judicial review of administrative denials of citizenship would be severely limited and impeded in many cases, and completely eliminated in others. I believe these provisions raise serious constitutional questions. Constitutionality aside, I see no justification in national policy for their adoption.

Section 401 of this bill would establish a Joint Congressional Committee on Immigration and Nationality Policy. This committee would have the customary powers to hold hearings and to subpena witnesses, books, papers, and documents. But the committee would also be given powers over the executive branch which are unusual and of a highly questionable nature. Specifically, section 401 would provide that—

> The Secretary of State and the Attorney General shall without delay submit to the committee all regulations, instructions, and all other information as requested by the committee relative to the administration of this Act.

This section appears to be another attempt to require the executive branch to make available to the Congress administrative documents, communications between the President and his subordinates, confidential files, and other records of that character. It also seems to imply that the committee would undertake to supervise or approve

regulations. Such proposals are not consistent with the constitutional doctrine of the separation of powers.

In these and many other respects, the bill raises basic questions as to our fundamental immigration and naturalization policy, and the laws and practices for putting that policy into effect.

Many of the aspects of the bill which have been most widely criticized in the public debate are reaffirmations or elaborations of existing statutes or administrative procedures. Time and again, examination discloses that the revisions of existing law that would be made by the bill are intended to solidify some restrictive practice of our immigration authorities, or to overrule or modify some ameliorative decision of the Supreme Court or other Federal courts. By and large, the changes that would be made by the bill do not depart from the basically restrictive spirit of our existing laws—but intensify and reinforce it.

These conclusions point to an underlying condition which deserves the most careful study. Should we not undertake a reassessment of our immigration policies and practices in the light of the conditions that face us in the second half of the twentieth century? The great popular interest which this bill has created, and the criticism which it has stirred up, demand an affirmative answer. I hope the Congress will agree to a careful reexamination of this entire matter.

To assist in this complex task, I suggest the creation of a representative commission of outstanding Americans to examine the basic assumptions of our immigration policy, the quota system and all that goes with it, the effect of our present immigration and nationality laws, their administration, and the ways in which they can be brought into line with our national ideals and our foreign policy.

Such a commission should, I believe, be established by the Congress. Its membership should be bipartisan and divided equally among persons from private life and persons from public life. I suggest that four members be appointed by the President, four by the President of the Senate, and four by the Speaker of the House of Representatives. The commission should be given sufficient funds to employ a staff and it should have adequate powers to hold hearings, take testimony, and obtain information. It should make a report to the President and to the Congress within a year from the time of its creation.

Pending the completion of studies by such a commission, and the consideration of its recommendations by the Congress, there are certain steps which I believe it is most important for the Congress to take this year.

First, I urge the Congress to enact legislation removing racial barriers against Asians from our laws. Failure to take this step profits us nothing and can only have serious consequences for our relations with the peoples of the Far East. A major contribution to this end would be the prompt enactment by the Senate of H. R. 403. That

bill, already passed by the House of Representatives, would remove the racial bars to the naturalization of Asians.

Second, I strongly urge the Congress to enact the temporary, emergency immigration legislation which I recommended 3 months ago. In my message of March 24, 1952, I advised the Congress that one of the gravest problems arising from the present world crisis is created by the overpopulation in parts of Western Europe. That condition is aggravated by the flight and expulsion of people from behind the iron curtain. In view of these serious problems, I asked the Congress to authorize the admission of 300,000 additional immigrants to the United States over a 3-year period. These immigrants would include Greek nationals, Dutch nationals, Italians from Italy and Trieste, Germans and persons of German ethnic origin, and religious and political refugees from communism in Eastern Europe. This temporary program is urgently needed. It is very important that the Congress act upon it this year. I urge the Congress to give prompt and favorable consideration to the bills introduced by Senator Hendrickson and Representative Celler (S. 3109 and H. R. 7376), which will implement the recommendations contained in my message of March 24.

I very much hope that the Congress will take early action on these recommendations. Legislation to carry them out will correct some of the unjust provisions of our laws, will strengthen us at home and abroad, and will serve to relieve a great deal of the suffering and tension existing in the world today.

HARRY S. TRUMAN.

THE WHITE HOUSE, *June 25, 1952.*

COMMISSION'S HEARINGS—LIST OF WITNESSES

The following is a list of the witnesses who testified at the Commission's hearings or who submitted statements. The descriptive information does not necessarily imply that the witness represented such organization.

ABELES, Mrs. Alfred T., Chairman, Chicago Area Congregational D. P. Resettlement Committee

ABRAMS, Samuel, President, Hebrew Immigrant Aid Society of Boston

ACHESON, Hon. Dean, Secretary of State of the United States

ACTON, Norman, Assistant Secretary General, International Society for the Welfare of Cripples

ADAMS, Rev. Earl F., Director, Washington Office, National Council of Churches of Christ in the U. S. A.

ADAMS, Susan D., Los Angeles Central Labor Council, A. F. L.

ADLER, Rabbi Morris, Vice President, Jewish Community Council of Detroit

AGH, L., Chairman in U. S. A., Collegial Society of Hungarian Veterans in U. S. A.

AITCHISON, D., M. D., D. D., D. C. L., Minister and Medical Missionary, Takoma Park, Md.

AKAGI, Richard, Associate Legislative Director, Anti-Discrimination Committee, Japanese-American Citizens League

ALINSKY, Saul, the Back of the Yards Council

ALLEN, Isabel, Sturgis, Mich.

ALLISON, SAMUEL K., Professor of Physics, University of Chicago and Director, Institute for Nuclear Studies

ALSBERG, Elsa, Executive Director, Palo Alto Fair Play Council

AMBROZIC, Rev. Bernard, Executive Secretary, League of Catholic Slovenian Americans

ANASTASSY, Metropolitan, President, Bishops' Synod of the Russian Orthodox Church Outside Russia, Inc.

ANDREWS, Mrs. W. H., Garden City, New York

ANDRICA, Theodore, Nationalities Editor, *The Cleveland Press*

APGAR, Sybil, Manhattan Beach, Calif.

ARENSBERG, Conrad M., Professor of Anthropology, Columbia University, New York, N. Y.

ARONEY, Anthony, Jr., Past Supreme Vice President, Order of American Hellenic Educational Progressive Association

AUCHARD, Rev. Edward D., representing Rev. Dr. Ralph H. Jennings

AVILA, Manuel, Catholic Resettlement Committee of the Archdiocese of Los Angeles

AYERS, Rev. Robert H., Chaplain and Head of the Department of Religion, University of Georgia, representing Rabbi Joseph Rudavsky, Rev. Omar R. Fink, Jr., Rev. Brunson Wallace, Rev. Dow Kirkpatrick, Father Walter J. Donovan, and Rev. J. Earl Gilbreath

BACON, Eva, Brooklyn, N. Y.

BACON, Frances M., Los Angeles, Calif.

BARRON, Mrs. Harriet, American Committee for Protection of Foreign Born

BARTLETT, Hon. E. L., a Delegate in Congress from the Territory of Alaska

BASKIN, Virginia, Vice President, Pioneer Women, Brentwood Chapter

BASSET, W. J., Secretary, Los Angeles Central Labor Council, A. F. L.

BATES, Mrs. Rosiland G., Chairman, Southern California Women Lawyers

BAUER, Fred, Secretary, American Aid Society, Inc.

BAUTZ, Rev. Donald F., Executive Director, Lutheran Inner Mission Society; Chairman Washington Area Lutheran Resettlement Committee

BEALS, Ralph L., Professor of Anthropology, University of California

BEAN, Louis H., Economist, Office of the Secretary, U. S. Department of Agriculture

BELOSSELSKY, Serge, Representative in Eastern United States of the Federation of Russian Charitable Organizations of the United States

BERNARD, William, Secretary, Institute for International Government

BESIG, Ernest, Director, American Civil Liberties Union of Northern California

BIERINGER, Walter H., Chairman, Massachusetts Displaced Persons Commission and National President, United Service for New Americans

BISHOP, Homer C., Professor of Social Work at the George Warren Brown School of Social Work of Washington University, representing the St. Louis Chapter of the American Association of Social Workers

BIXLER, Mrs. M. F., Co-Chairman, Department of Christian World Relations, Cleveland Council of Church Women, representing also the Cleveland Church Federation and the Federation of Protestant Churches of Cleveland

BLACKSHEAR, Mrs. Hinton, Cherokee Chapter Regent, Daughters of the American Revolution

BLUMER, Herbert, Orinda, Calif.

BOOK, Rev. Abbott, Executive Director, Northern California, Nevada Council of Churches, represented by Charles A. Pingham

BOREN, Rev. James E., University Pastor at the University of Minnesota, representing the Committees on Social Education and Action of the Minnesota Council of Churches and of the Presbytery of Minneapolis, Presbyterian Church in the U. S. A.

BOSLER, Rev. Raymond, Editor, *Indiana Catholic and Record*, representing the Indianapolis Community Relations Council

BOSS, Charles F., Jr., Executive Secretary, Board on World Peace of the Methodist Church

BOZZANI, Amerigo, the American-Italian Democratic Committee and the American Committee on Italian Migration, Southern California

BRADISH, Mrs. Betsy Buell, Brooklyn, N. Y.

BRANNAN, Hon. Charles F., Secretary of Agriculture of the U. S. represented by Hon. Knox T. Hutchinson

BREEDLOVE, T. R., Monroe, Georgia

BREGMAN, Judith, Secretary, Committee on Visa Problems of the Federation of American Scientists

BRENNAN, Iva Lake, Brooklyn, N. Y.

BROCK, Mrs. Maynor D., Executive Director, Naturalization Council of Kansas City, Mo.

BROWN, Arthur T., the International General Electric Co.

BROWN, Rev. Edward A., Pastor, Westlake Methodist Church, Executive Director of the American Civil Liberties' Union, Cleveland Branch

BROWN, Rev. Ethelred, Secretary, Jamaica Progressive League; Minister, Harlem Unitarian Church, New York

BROWN, Fred A., Wrightsville, Pa.

BROWN, Mrs. Fred A., Wrightsville, Pa.

BROWN, Meyer L., President, Farband Labor Zionist Order

BRUCE, H. D., Madison, Wis.

BRUMBERG, Walter, Vice President and Acting President, Estonian Aid, Inc.

BRUSH, Grace, Brooklyn, N. Y.

BUCKLEY, Rev. Frederick J., Professor of Social Ethics, St. John's Seminary, Brighton, Mass.

BUKOWSKI, Peter, President, Cosmopolitan National Bank of Chicago and former Deputy Administrator, Reconstruction Finance Corporation

BURANT, Rt. Rev. Msgr. Feliks F., President, Polish Immigration Committee, American Commission for Relief of Polish Immigrants, Inc.

BURGESS, Alexander M., M. D., National Chairman, National Committee for Resettlement of Foreign Physicians; former Chairman, Displaced Persons Commission of Rhode Island

BURGESS, David, Secretary, Georgia CIO Council

BURKE, Helen E., Jersey City, N. J.

BURNS, Mrs. Carolyn Sinelli, Detroit, Mich.

BURTS, Mrs. Uransom, Honorary Regent, Cherokee Chapter, Daughters of the American Revolution

BUSH, Herman, the American Federation of Polish Jews, Chicago District

BUSH, Vannevar, President, Carnegie Institution of Washington; former Director, Office of Scientific Research and Development

BUSHONG, Rev. Benjamin, Director, Department of Mutual Aid, Brethren Service Commission, Church of the Brethren

BUTLER, Sally, Director, Legislative Research, General Federation of Women's Clubs

CADIEUX, Arthur L., the Minneapolis Chamber of Commerce

CAHILL, William J., Counsel for United Friends of Needy and Displaced People of Yugoslavia, Inc.

CAHN, Leni, the International Institute, St. Paul, Minn.

CAIN, Mrs. Norman H., Atlanta, Ga.

CALHOUN, Emily, Recording Clerk, Religious Society of Friends, Atlanta, Ga.

CAMPBELL, Rev. William J., Pastor of the Methodist Church of Austin, Minnesota, representing also the Jewish Community of Austin and Frank Schultz

CARMELL, Daniel D., General Counsel, Illinois State Federation of Labor, A. F. L.

CARMIN, Mrs. Pearson, Los Angeles, Calif., representing Miss Eaton

CARTY, Rev. Denzil A., Director of St. Phillip's Church, St. Paul, representing the Minnesota State Conference of the National Association for the Advancement of Colored People

CARUSI, Hon. Ugo, United States Representative of the Office of the United Nations High Commissioner for Refugees, former Chairman, U. S. Displaced Persons Commission, former U. S. Commissioner of Immigration

CASANOVA, Mrs. Florence J., Brooklyn, N. Y.

CASSAVETES, Nicholas J., New York, N. Y.

CASSIDY, Florence G., Secretary, Michigan Displaced Persons Commission and Secretary, Nationality Department of United Community Services

CASTEL, Rt. Rev. Msgr. William J., Director, Archdiocesan Resettlement Bureau of the Catholic Archdiocese of New Orleans, and member of the State Committee of Displaced Persons and the New Orleans Resettlement Committee, representing Rev. Albert D'Orlando, Rev. Dana Dawson, Jr., Rev. W. D. Langry, Mrs. Moise W. Dennery, Clarence M. East, Jr.

CELLER, Hon. Emanuel, a Representative in Congress from the State of New York and Chairman of the House Judiciary Committee

CHALLGREN, Mrs. T., and Family, Buffalo, N. Y.

CHALMERS, Paul, Professor and Adviser to Foreign Students at Massachusetts Institute of Technology and Past President, National Association of Foreign Student Advisers

CHANDLER, Edgar H. S., Director, Field Operations for the Refugee Service for the World Council of Churches

CHERNE, Leo, Member of Board of Directors of the International Rescue Committee

CHRISTIANSON, Warren C., Secretary, Sitka Chamber of Commerce, Sitka, Alaska

CHURCH, Edward J., Executive Secretary, Wayne County Council, Veterans of Foreign Wars of the United States

CIARROCCHI, Msgr. Joseph, Pastor, Italian Church of Santa Maria in Detroit and editor of the American-Italian Weekly *La Voce del Popolo*

CLAGUE, Ewan, Commissioner of Labor Statistics, U. S. Department of Labor

CLAPP, Eugene H., President, Penobscot Chemical Fibre Co.

CLIFTON, Albert G., Legislative Agent, Massachusetts State CIO Industrial Union Council

COFFEY, Reid, United Automobile, Aircraft and Agricultural Implement Workers of America, C. I. O.

COHEN, Frederick F.

COHEN, Mrs. Martin M., Council of Jewish Women, Minneapolis Section and the Minneapolis Hadassah

COHEN, Mrs. Morris, Atlanta, Ga.

COLLINS, John, Assistant Regional Director, (Boston) C. I. O.

COMPTON, Arthur H., Chancellor, Washington University, St. Louis, Mo.

CONTO, Armando F., General Manager, Freez-King Corp.

COOLIDGE, Hon. Charles A., Assistant Secretary of Defense

COPE, Mrs. Alice, Vice Chairman Massachusetts Displaced Persons Commission, and President of the Window Shop

CORSI, Hon. Edward, Industrial Commissioner of the State of New York; Chairman, New York State Displaced Persons Commission; and President, American Federation of International Institutes

CORYELL, Charles DuBois, Secretary, Federation of American Scientists

COUNCIL, Mary Lee, representing the Hon. E. L. Bartlett

COUNTS, George S., Vice Chairman, Liberal Party of New York State, and Professor at Teachers College, Columbia University

COWDRY, Mrs. E. V., the St. Louis Young Women's Christian Association and the Young Women's Christian Association Public Affairs Committee of Missouri

COX, Cordelia, Resettlement Executive, Resettlement Service of the National Lutheran Council

CRAGUN, John W., Chairman, Administrative Law Section, American Bar Association

CRONIN, Rev. Bernard C., Director, Catholic Resettlement Committee, Archdiocese of San Francisco

CRUZ, Mrs. Margaret, the Advisory Committee on Employment Problems of Latin Americans

CUMNER, Genevieve, Brooklyn, N. Y.

CURTIN, Anna Marie, Information Secretary, the Americanization League of Syracuse and Onondaga County, Inc.

CURTIS, Edna C., Brooklyn, N. Y.

CURTISS, Mrs. Charles R., Illinois State Regent, Daughters of the American Revolution

CUSHING, Archbishop Richard J., Catholic Archdiocese of Boston, represented by Rev. Daniel McColgan

D'AGOSTINO, Amerigo, Chairman, Committee on Congressional Trends, Association of Immigration and Nationality Lawyers, representing Fortune Pope

D'ANTONIO, Guy J., former Chairman, Louisiana State Displaced Persons Commission

DALTON, Mrs. William H., President, National Council of Catholic Women

DAVENPORT, Russel W., writer, former Editor of *Fortune*

DAVIE, Maurice R., Professor of Sociology, Yale University

DAVEY, Albert O., Jr., Vice President, Cleveland Federation of Labor, A. F. L., and Editor of *The Cleveland Citizen*

DAVIS, Esther, Chairman, Displaced Persons Sub-committee of the Chicago Church World Service Committee

DAVIS, Hon. James P., Director, Office of Territories, U. S. Department of the Interior

DAVIS, Kenneth Culp, Minneapolis, Minn.

DAWSON, Rev. Dana, Jr., Chairman, Department of Civil Affairs, New Orleans Council of Churches, represented by Rt. Rev. Msgr. William J. Castel

DAWSON, Rev. Joseph M., Baptist World Alliance

DE GRAZIA, Alfred, Associate Professor of Political Science and Executive Officer, Committee for Research in Social Science at Stanford University

DE LACY, Hugh, National Vice President, Progressive Party

DEMOPULOUS, George K., the Order of the American Hellenic Educational Progressive Association

DENNERY, Mrs. Moise, W., President, New Orleans Section, National Council of Jewish Women, represented by Rt. Rev. Msgr. William J. Castel

DE PASQUALE, Hon. Luigi, the Rhode Island Resettlement Council for Italian Immigrants, also representing the Rev. Joseph J. Lamb

DESPOL, John, Secretary-Treasurer of the California Council, CIO; Executive Secretary, CIO California Industrial Union Council

DEVER, Hon. Paul A., Governor of the State of Massachusetts, represented by Orville S. Poland

DIAMOND, Charles N., the Order of American Hellenic Educational Progressive Association in Michigan

DI GIULIO, Palmer, Member, Immigration and Naturalization Committee, Supreme Lodge, Order Sons of Italy in America

DILLON, Roy A., former Chairman of the Oklahoma Displaced Persons Commission; representing the State Personnel Board of Oklahoma and the Council of Churches for the State of Oklahoma

DIMITROV, G. M., Secretary General, International Peasant's Union

DINGOL, Solomon, the Committee of Editors of American Foreign Language Newspapers

DONOVAN, Rev. Walter J., Director of Resettlement, Catholic Diocese of Savannah-Atlanta, and also represented by Rev. Robert H. Ayers

D'ORLANDO, Rev. Albert, Minister of the First Unitarian Church, New Orleans, represented by Rt. Rev. Msgr. William J. Castel

DOSS, Kathleen R., the Pan-Amerasian Co., Seattle, Wash.

DOUGLAS, Mrs. George T., Chairman, International Club of the YWCA of Atlanta, represented by Rev. Herman L. Turner

DOYLE, Rev. James E., Executive Director, Catholic Resettlement Committee of the Catholic Archdiocese of Chicago

DOYLE, Msgr. Michael J., Catholic Diocese of Toledo, Catholic Charities Director

DRAGICEVIC, Rev. Berto, Executive Director, Croatian Refugee Committee

DRAPER, Hon. William H., U. S., Special Representative in Europe, Mutual Security Agency

DUBLIN, Louis I., Second Vice President and the Statistician of the Metropolitan Life Insurance Co., New York.

DUDDE, Rev. John H., Pastor, St. Paul's Lutheran Church, Liverpool, N. Y.

DULIN, Adolph, Chairman, Relief Association for Germans of Prewar Poland, of Detroit, Mich.

DUMBAULD, Edward, Secretary, American Society of Industrial Law

DURKEE, Harry D., representing the Lutheran Resettlement Service in San Francisco

DYBOWSKI, Zygmunt B., President, Polish American Congress, Department of Ohio; former State Adjutant, Polish Legion of American Veterans; Editor of the *Polish Daily News*

EASBY, Dudley Tate, Jr., Secretary, Metropolitan Museum of Art, New York City

EAST, Clarence M. Jr., representing the Catholic Committee of the South, represented by Rt. Rev. Msgr. William J. Castel

EASTLUND, Lowell, Department of Minnesota Veterans of Foreign Wars
EATON, Miss, Los Angeles, Calif., represented by Mrs. Pearson Carmin
EDSALL, John T., Chairman, Committee on International Relations, American Academy of Arts and Sciences
EIDBO, Paul G., the Lutheran Resettlement Service of North Dakota
ELLINGTON, E. V., Director of the Agricultural Extension Service, State College of Washington, represented by Walter Zuger
ELLIOTT, Mrs. Harrison S., Young Women's Christian Association
ELLIOTT, Roland, Director of Immigration Services, Department of Church World Service, National Council of Churches of Christ
EMMET, Christopher, Executive Vice Chairman, Aid Refugee Chinese Intellectuals, Inc.
EMPIE, Paul C., Executive Director, National Lutheran Council
ENGEL, Irving M., the American Jewish Committee and the Anti-Defamation League of B'nai B'rith
ENNIS, Edward J., representing the American Civil Liberties Union
ERICKSON, Mrs. Arthur C., Eveleth, Minn.
FAIRFIELD, Rev. Wynn C., Executive Director, Department of Church World Service, National Council of Churches of Christ
FALKENBERG, Charles V., Cook County Council of the American Legion, Department of Illinois
FALLON, Joseph P., Jr., Fallon and Fallon, Attorneys, San Francisco
FARNESE, Andrew N., the Italian American Committee for Better Government of Philadelphia
FELDMAN, Mrs. Walter, Atlanta, Ga.
FELTZ, Mr. and Mrs. Harold, Williamsville, N. Y.
FERGUSON, John H., Cleveland, Ohio
FERGUSSON, Margaret, Director of the International Institute of Cleveland
FERRARI, Louis, American Committee on Italian Migration, California Chapter
FIELD, Mrs. Mildred J., North Hollywood, Calif.
FINE, Rabbi Alvin I., Board of Rabbis of Northern California
FINK, Rev. Omar R., Jr., Athens, Ga., represented by Rev. Robert H. Ayers
FINNEY, Gerald D., Assistant General Solicitor, Association of American Railroads
FINUCANE, James, Associate Secretary of the National Council for the Prevention of War
FITZGERALD, D. A., Associate Deputy Director of the MSA, representing Hon. W. Averell Harriman
FITZGERALD, James E., the Chinese Consolidated Benevolent Association of New England, the Chinese Merchants Association, The Chinese Order of Freemasons, The Chinatown Post No. 328 American Legion, the Gee How Oak Tin Association of Boston, the Wong Wun Sun Association of Boston, the Yee Moo Kai, Association of Boston, the Lee Lung Sai Association of Boston
FLEISHMAN, Alfred, the Jewish Community Relations Council of St. Louis, the Jewish Community Relations Bureau of Greater Kansas City, the St. Louis and Kansas City Sections of the National Council of Jewish Women
FLEWELLING, Rod, Montrose, Calif.
FOLEY, Mrs. Alma, Minnesota Committee for Protection of Foreign Born
FOOTE, Rev. Arthur Unity Church (Unitarian), St. Paul, represented by Hubert Schon
FORRO, Rev. Alpar, pastor, St. Emeric's Catholic Church, Milwaukee, Wis.
FOSTER, GEORGE T., Constitutional Americans
FOWELL, Myron W., Secretary, Massachusetts Congregational Conference and Missionary Society, Boston, Mass.
FREEDHEIM, Eugene H., Co-Chairman of the Legislative Committee of the Welfare Federation of Cleveland
FRETZ, J. Winfield, the Mennonite Central Committee
FRIEDRICH, Carl, Professor of Government, Harvard University
FRITCHMAN, Rev. Steven, the First Unitarian Church of Los Angeles
FRUCHTBAUM, L. M., Director, Political Affairs, Freeland League for Jewish Territorial Colonization
FUJII, Ryoichi, Editor, *The Chicago Shimpo* (The Chicago Japanese American News)
FULLER, Varden, Associate Professor of Agricultural Economics, University of California, and former Executive Secretary to the President's Commission on Migratory Labor
FURCOLO, Hon. Foster, a Representative in Congress from the State of Massachusetts
FUZY, William A., the American Hungarian Federation

GADOWSKI, Mrs. Estelle, President, Polish Aid Society, Detroit, Mich.

GALLAN, Walter, Executive Director, United Ukranian American Relief Committee, Inc.

GALLEN, Eduard D., Vice President, Latvian Relief, Inc.

GARDESCU, Mrs. Pauline, International Institute of Boston and Boston Chapter of the American Association of Social Workers

GEISEMAN, O. A., Pastor, Grace Lutheran Church, River Forest, Ill.

GEURAS, Peter G., representing Costa Meliotis, and the Displaced Persons Committee of the Athens Chapter of the Order of American Hellenic Educational Progressive Association

GIAMBALVO, Peter C., National Chairman of the Public Relations Committee of the Independent Order Sons of Italy

GIBBONS, Edward H., Los Angeles Conference of Civic Organizations

GIBBONS, Rev. William J., Information Officer and Member of the Executive Committee, National Catholic Rural Life Conference

GIBBS, J. Rice, Chairman Immigration Committee, American Defense Society, Inc.

GIBSON, Hon. Hugh, Director, Intergovernmental Committee for European Migration

GIBSON, Hon. John W., Former Chairman, U. S. Displaced Persons Commission; former Assistant Secretary of Labor

GIGANTE, Nicola, Director, Michigan Chapter, American Committee on Italian Migration

GILBREATH, Rev. J. Earl, Athens, Ga., represented by Rev. Robert H. Ayers

GLOCKLE, Mrs. Louise S., Anchorage, Alaska

GOLDSMITH, Samuel A., representing the Jewish Federation of Chicago and the Jewish Welfare Fund of Chicago

GOMBOS, Zolten, Publisher of *Szabadzag*, a Hungarian Daily, represented by Bela Nogradi

GOODWIN, Robert C., Director, Bureau of Employment Security, U. S. Department of Labor, representing the Hon. Maurice J. Tobin

GOUGH, Lewis K., National Commander, the American Legion

GRABBE, Archpriest George, Chancellor to the Private and Bishops' Synod of the Russian Orthodox Church Outside Russia, Inc.

GRAHAM, Chester A., National Farmers Union and the North Dakota Farmers Union, Jamestown, N. Dak.

GRANOVSKY, Alexander, Professor of Ethnology, University of Minnesota, representing the United Ukrainian American Resettlement Committee of Minnesota

GRANT, Edith, Buffalo, N. Y.

GRECO, Madeline L., Administrative Assistant, American Service Institute of Allegheny County, Pittsburgh, Pennsylvania, representing also the American-Bulgarian League, Catholic Slovak Brotherhood, Council of Jewish Women, Croatian Fraternal Union, Federation of Jewish Philanthropies and United Jewish Fund, Greater Beneficial Union of Pittsburgh, Jewish Family and Children's Service, Lutheran Service Society, Serb National Federation Verhovay Association, and Jewish Community Relations Council

GREEN, George, Director of the Citizens' Bureau of Cleveland

GRIFFING, Col. Joel D., Chief Planning Officer of the Selective Service System, representing Major General Lewis B. Hershey

GROSSMAN, Saul, Secretary, Michigan Committee for Protection of Foreign Born

GROTEFEND, Rev. Oliver C., Pastor, Hope Lutheran Church, President of the Lutheran Resettlement Commission, Ohio, representing also the Cleveland Church Federation and the Federation of Protestant Churches of Cleveland

GUARDENIER, Blanche O., Brooklyn, N. Y.

GUARDENIER, Lucy H., Brooklyn, N. Y.

GUARDENIER, Mrs. M. Theresa, East Springfield, N. Y.

GUINS, George C., Professor of Political Science, University of California, representing the Lutheran Resettlement Service in San Francisco

GUPTA, Kamini K., Attorney, San Francisco, Calif.

GUTTERMAN, Lester, the American Jewish Committee and the Anti-Defamation League of B'nai B'rith

HABBERTON, Col. Benjamin G., Acting Commissioner of Immigration and Naturalization, representing Hon. Argyle R. Mackey

HALL, Douglas, Hennepin County, Minn., CIO Industrial Union Council

HALVORSON, Lloyd C., the National Grange

HAMILTON, John W., the Citizens' Protective Association of St. Louis

HANDLIN, Oscar, Associate Professor of History at Harvard University

HANSON, Mrs. Vera B., Cranston, R. I.

HARBACH, Otto A., President, American Society of Composers, Authors and Publishers

HARBERGER, Arnold C., Professor of Economics, Johns Hopkins University, and former staff member, President's Materials Policy Commission

HARD, Mrs. Straiton, National Defense Chairman, Atlanta Chapter, Daughters of the American Revolution

HARRIMAN, Hon. W. Averell, Director, Mutual Security Agency, represented by D. A. FitzGerald

HARRIS, Mrs. Edna C., Brooklyn, N. Y.

HARRIS, Helen M., Executive Director, United Neighborhood Houses of New York and member of the Board of Directors, National Federation of Settlements and Neighborhood Centers

HART, Henry M., Jr., Professor of Law, Harvard University, represented by Louis L. Jaffee

HART, Merwin K., President, National Economic Council, Inc.

HART, S. Willy, New York, N. Y.

HASKINS, Kathryn E., Brooklyn, N. Y.

HATCH, Sharon L., Executive Secretary, International Institute of Milwaukee County, Inc.

HAUSER, Philip M., Professor of Sociology, University of Chicago

HAWLEY, Amos, Professor of Sociology, University of Michigan

HAYAKAWA, S. I., Editor *ETC: A Review of General Semantics*

HAYWOOD, Allan S., Executive Vice President, Congress of Industrial Organizations, representing Philip Murray

HEIMS, Edward H., former Chairman, Committee on Immigration, Immigration Section, Commonwealth Club of California

HEINEMAN, Henry, Chicago Division of the American Civil Liberties Union and the American Jewish Committee

HELLER, Leonard H., Refugee Service Committee of the Jewish Family Service of St. Paul, Minn.

HENNING, Mrs. Iva R., State Defense Chairman of the Daughters of the American Revolution, San Francisco, representing the Legislative Committee

HENDERSON, Rev. Harold E., Executive Secretary, Committee on Displaced Persons, Presbyterian Church

HERBERLE, Rudolf, Professor of Sociology, Louisiana State University

HERNE, Mrs. Elaine, Brooklyn, N. Y.

HERSHEY, Major General Lewis B., Director of Selective Service, represented by Col. Joel D. Griffing

HERTER, Hon. Christian A., a Representative in Congress from the State of Massachusetts

HERTOGS, Joseph S., San Francisco, Calif., Jackson and Hertogs, Attorneys

HOFFMAN, Bernard L., Commander, Department of Michigan, Jewish War Veterans of the United States of America, represented by Samuel J. Rhodes

HOFSTETTER, Patricia J., Southern California Women Lawyers

HOLOCH, Robert F., Chairman, National Committee on Public Affairs, Steuben Society of America

HOLTON, J. C., Assistant to the Commissioner, Georgia State Department of Agriculture and Secretary of Georgia Displaced Persons Committee

HONG, C. Y., President, Grand Lodge, Chinese American Citizens Alliance

HONG, EDWARD, Chinese Consolidated Benevolent Association of New York

HORTON, Mrs. Mildred McAfee, Former President of Wellesley College, member of the General Board of the National Council of Churches of Christ in the U. S. A.

HOSKINS, Lewis M., the American Friends Service Committee, Inc.

HOWARD, Donald S., Dean, School of Social Welfare, University of California

HOWELLS, John N. M., Chairman of the Liberal Citizens of Massachusetts

HULCHIG, Kathleen, Secretary, League of Americans of Ukrainian Descent, Inc., Chicago Branch of United Ukrainian American Relief Committee, Inc., and of the Ukrainian Congress Committee of America

HUTCHINSON, Hon. Knox T., Assistant Secretary of Agriculture, representing Hon. Charles F. Brannan

HUTLER, Albert A., Chairman, Coordinating Committee for the Resettlement of Displaced Persons in San Diego

IHRIG, H. William, former President of the Steuben Society, in Milwaukee, Wis.

ISHIMARU, Haruo, the Japanese-American Citizens League, Northern California Regional Office

JACKSON, Z. B., San Francisco, Calif., Jackson and Hertogs, Attorneys

JAFFE, Louis L., Professor of Administrative Law, Harvard Law School, Chairman of the Committee on Immigration of the Administrative Law Section of the American Bar Association; also on behalf of Henry M. Hart, Jr.

JAVITS, Hon. Jacob K., a Representative in Congress from the State of New York

JENNINGS, Rev. Dr. Ralph H., Executive Secretary of the Synod of Missouri, Presbyterian Church, U. S. A., represented by Rev. Edward D. Auchard

JERRY, Helen B., Immigrants Protective League, Chicago

JOCELYN, Mrs. Charles, East Springfield, N. Y.

JOFFE, Boris M., Chairman Pro-Tem, Michigan Committee on Immigration

JOHNSON, Stanley L., Secretary-Treasurer, Illinois State Federation of Labor, A. F. L.

JOHNSTON, Edgar L., Professor of Education, Wayne University, representing the National Consumers League

JORY, Nicholas, the American-Hungarian Federation

KANE, Harry F., Riverside County, Calif., Council of the Independent Progressive Party

KEIBLER, Mrs. Druzilla, Regional Secretary, Lutheran Welfare Council of Northern California

KELLER, Alvin, Commander, Department of Michigan American Veterans of World War II, (AMVETS) represented by Samuel J. Rhodes

KELLY, Rev. William F., Director of the Social Action Department, Catholic Diocese of Brooklyn, N. Y.

KENNEDY, Cleo J., and Frances Kennedy, Minneapolis, Minn.

KENNEDY, Hon. John F., a Representative in Congress from the State of Massachusetts

KING, Mrs John, Fairfax, Va.

KIRKPATRICK, Rev. Dow, Athens, Ga., represented by Rev. Robert H. Ayers

KIST, Rev. Andrew, Pastor, St. George's Greek Orthodox Ukrainian Church of Minneapolis

KITAGAWA, Daisuke, Rev., Adviser to local chapter, Japanese-American Citizens League

KIVIRANNA, Rev. Rudolf, President, Estonian Relief Committee, Inc.

KLECKLEY, Rev. H. D., Chairman, Georgia-Alabama Committee, National Lutheran Council

KLEVIN, Bernhardt J., Professor of Social Sciences, Ausburg College, Minneapolis, Minn.

KLIMEK, Adolph, Chairman of the Social Aid Committee of the Council of Free Czechoslovakia

KLINE, A. B., President, American Farm Bureau Federation

KOVARSKY, Marcel, Executive Director, Jewish Family and Children's Service, Pittsburgh, Pennsylvania

KOVRAK, Stephen J., Polish American Congress, Inc., (Eastern Division), American Relief for Poland (Philadelphia Division) Polish American Citizens' League of Pennsylvania

KRAMER, Rabbi Simon G., President of the Synagogue Council of America, and President of the National Community Relations Advisory Council

KRAWCZAK, Rev. Arthur H., Director, Detroit Catholic Archdiocesan Resettlement Committee for Displaced Persons

KREBS, Alfred U., Counsel for the National Federation of American Shipping, Inc., and also representing the American Merchant Marine Institute

KRIPPNER, Jeanette F., Secretary, Executive Board of the National Alliance of Czech Catholics

KRIZKA, Rev. Martin A., Chaplain, Executive Board of the National Alliance of Czech Catholics

KUBAC, Frank, Los Angeles, Calif.

KUBE, Ella, Los Angeles County Conference on Community Relations

KUECHLE, Rev. George, Pastor, St. Mark's Missouri Lutheran Church, representing the Cleveland Church Federation and the Federation of Protestant Churches of Cleveland

KUNTZ, Rev. Werner, Director, Lutheran Service to Refugees of Detroit, Mich.

KURTH, Mrs. Anne, Chairman, Social Action Committee, Detroit Archdiocesan Council of Catholic Women

KUSHIDA, Tata, Regional Director, Japanese-American Citizens League

KUTRUBES, Prakos P., Boston, Mass.

LADAR, Samuel A., Jewish Community Relations Council of San Francisco; Jewish Welfare Federation of Oakland, including the Oakland Community Relations Council and the Oakland Welfare Fund; Hebrew Immigrant Aid Society, San Francisco Branch; San Francisco Committee for Service to Emigres; Jewish Welfare Fund of San Francisco; Anti-Defamation League of B'nai B'rith, Regional Office; San Francisco Chapter, American Jewish Committee; Federation of Jewish Charities of San Francisco

LAGODZINSKI, Mrs. Adele, President, Polish Women's Alliance of America and Secretary, Polish-American War Relief

LAMB, Rev. Joseph J., Director, Diocesan Bureau of Social Service, Inc., of the Catholic Dioces of Providence, represented by Hon. Luigi DePasquale

LAMONT, Corliss, New York, N. Y.

LANE, Mrs. Charles N., Brooklyn, N. Y.

LANGTRY, Rev. W. D., President, New Orleans Ministerial Union, represented by Rt. Rev. Msgr. William J. Castel

LANI, Rev. Mathias, Catholic Resettlement Committee of the Archdiocese of Los Angeles

LARKIN, Rev. William B., Resettlement, Director, Catholic Diocese of Duluth

LATIMER, Ira H., Chicago Civil Liberties Committee

LATOURETTE, K. S., Professor of Missions and Oriental History, Yale University

LEDBETTER, Rev. Theodore S., New Haven Jewish Community Council; the New Haven Council of Protestant Churches; the Italian Newspaper, *New Haven;* Medillo-Faugno Post, of the Italian-American War Veterans; and the New Haven Branch of the National Association for the Advancement of Colored People

LEE, Mrs. C. A., Regent, Wadsworth Trail Chapter, Daughters of the American Revolution, Morris, Minn.

LEE, Lim P., Judge Advocate, Cathay Post 384, American Legion of California

LEETCH, Mrs. W. D., Chairman of Legislation, National Society of New England Women; the National Society, Women Descendants of the Ancient and Honorable Artillery Company; and the Women's Patriotic Conference on National Defense

LEHMAN, Hon. Herbert H., a Senator in Congress from the State of New York

LELAND, Wilfred C., Jr., the Legislative Committee, Minnesota State Conference of the National Association for the Advancement of Colored People

LENOW, John, Vice President, Latvian Relief, Inc.

LEVAN, Louis A., Senior Vice Chairman, Wayne County Council, Veterans of Foreign Wars of the United States

LEVIN, Samuel, the Amalgamated Clothing Workers of America

LEVINTHAL, Louis E., Hebrew Sheltering and Immigrant Aid Society, the United Service for New Americans and the National Council of Jewish Women

LEWIS, Edward R., Winnetka, Ill.

LEWIS, Mrs. Helen A., President, Chicago Council of Emma Lazarus Clubs

LEWIS, Joe C., California Farm Research and Legislative Committee, Santa Clara, Calif.

LEWIS, Read, Executive Director of the Common Council for American Unity

LIEBERMAN, Jacob J., Community Relations Committee of the Los Angeles Jewish Community Council

LIGUTTI, Rt. Rev. Msgr. L. G. Executive Director National Catholic Rural Life Conference

LINDER, Hon. Tom, Commissioner of Department of Agriculture, State of Georgia

LIU, Mrs. H. H. Chiu, represented by Rev. Herman L. Turner

LIVELY, C. E., representing C. T. Pihlblad

LODGE, Hon. Henry Cabot, a Senator in the United States Senate from the State of Massachusetts

LONGARINI, G. N., Publisher of the *Italian Daily Newspaper of Boston*

LOWETH, Mrs. Alice F., Co-Chairman Department of Christian World Relations, Cleveland Council of Church Women, representing the Cleveland Church Federation and the Federation of Protestant Churches of Cleveland

LUCAS, Charles P., Executive Secretary, Cleveland Branch, National Association for the Advancement of Colored People

LUDERMAN, Florence I., Brooklyn, N. Y.

LUSCOMB, Mrs. Florence H., State Chairman of the Progressive Party of Massachusetts

LYNCH, Rt. Rev. Msgr., James J., Director, Catholic Charities, Archdiocese of New York

MacDONALD, Alexander S. and Katherine, Los Angeles, Calif.

MACKEY, Hon. Argyle R., U. S. Commissioner of Immigration and Naturalization, represented by Col. Benjamin G. Habberton

MAGLI, Vito, New York, N. Y.

MALES, William, Administrative Assistant, Hebrew Sheltering and Immigrant Aid Society

MARCHISIO, Hon. Juvenal, National Chairman, American Committee on Italian Migration; Justice of the Domestic Relations Court of the City of New York

MARGAINE, Della G., Southern California Women Lawyers

MARKEL, Michael F., Legal Adviser, Resettlement Service, National Lutheran Council.

MARTEL, Frank X., President, Detroit and Wayne County Federation of Labor, A. F. L.

MARTZ, J. E., President, Kodiak Chamber of Commerce, Kodiak, Alaska.

MASARYK ALLIANCE OF CZECHOSLOVAKIAN CITIZENS

MASINO, Filindo B., President of the Association of Immigration and Nationality Lawyers

MASLOW, Will, Director, American Jewish Congress, Commission on Law and Social Action

MASUR, Jack, M. D., Assistant Surgeon General, Chief, Bureau of Medical Services, U. S. Public Health Service, Federal Security Agency

MATTHEWS, S. C., the San Diego County Farm Bureau

MAYCOCK, Welburn, the American President Lines, Ltd.

MAYER, R. E., President, Pacific American Steamship Association

McCLOSKEY, Stephen E., representing Earl McMann

McCOLGAN, Rev. Daniel, representing His Excellency the Most Reverend Richard J. Cushing

McDONALD, Mrs. Clara, President, United Patriotic People of the United States of America

McDONOUGH, Rev. John J., Assistant Pastor of the Cathedral of Christ the King

McGRANERY, Hon. James P., Attorney General of the United States

McHENRY, Dean E., Los Angeles, Calif.

McINTYRE, Most Rev. J. Francis A., Archbishop of Los Angeles, represented by Rt. Rev. Raymond O'Flaherty

McKAY, Robert B., Associate Professor of Law, Emory University

McMANN, Earl, President of the Boston Central Labor Union, A. F. L., represented by Stephen E. McCloskey

McMURRAY, Lloyd E., International Longshoremen's and Warehousemen's Union and the National Union of Marine Cooks and Stewards

MEAD, Margaret, Associate Curator American Museum of Natural History

MEINZEN, L. W., President of the Board, Lutheran Resettlement Service in San Francisco

MELIOTIS, Costa, President, Greek Orthodox Cathedral of Boston, represented by Peter G. Geuras

MENSALVAS, Chris, International Longshoremen's and Warehousemen's Union and the National Union of Marine Cooks and Stewards

MEYER, Edward L., Chairman of the Americanism Committee, Native Sons of the Golden West

MEYERHOFF, Howard A., Administrative Secretary, American Association for the Advancement of Science

MICHELS, Ruth, Virginia, Minn.

MIDWEST CHINESE AMERICAN CIVIC COUNCIL OF CHICAGO

MIHANOVICH, Clement Simon, Director, Department of Sociology, St. Louis University, representing also The Very Rev. Paul C. Reinert

MIKOLAJCZYK, Stanislaw, President, International Peasant's Union

MILLER, Alexander F., Southern Director, Anti-Defamation League of B'nai B'rith

MILLER, Mrs. Benjamin, President, Women for Legislative Action

MILLER, Rev. Elwin A., Executive Director, Lutheran Service Societies of Western Pennsylvania

MILLER, Mrs. Iluer Spann, Atlanta, Ga.

MILLER, J. W., Los Angeles, Calif.

MILLER, Rev. Payson, Secretary, International Relations Committee, Connecticut Council of Churches

MING, Floyd, National Commander, Disabled American Veterans

MINKUNAS, Peter, Executive Director, United Lithuanian Relief Fund of America, Inc.

MITCHELL, H. L., President, National Agricultural Workers Union, A. F. L.

MOE, Henry Allen, Secretary-General of the Guggenheim Foundation

MOHAN, Msgr. Frederick G., Catholic Diocese of Cleveland, Catholic Resettlement Council

MOHLER, Bruce M., Director, Bureau of Immigration, National Catholic Welfare Conference

MONTGOMERY, Donald, representing Walter Reuther

MONTZOROS, Peter N., 13th American Hellenic Educational Progressive Association District comprising the States of Illinois, Wisconsin and Missouri

MOODY, Hon. Blair, a Senator in Congress from the State of Michigan

MOORE, Forrest G., Foreign Student Adviser, University of Minnesota

MOORE, Mrs. Inez E., Valdez, Alaska

MOORE, Oran T., President of the Board of Directors, International Institute of Metropolitan Detroit

MOORE, Stuart, International Institute of St. Louis

MORRISSETT, Irving, Chairman, Friends Committee on Legislation of Northern California

MOSCONE, Fred J., Boston, Massachusetts

MOSLEY, Phillip Edward, Professor in the Department of Public Law and Government at Columbia University; Member of Russian Institute of Columbia University; and President, East European Fund, Inc.

MOY, Gilbert B., Executive Secretary, Chinese Consolidated Benevolent Association of New York

MURPHY, Florence, Cooperstown, N. Y.
MURPHY, George B., Jr., Co-Chairman, American Committee for Protection of Foreign Born
MURPHY, Mrs. Ruth Z., Executive Vice-President, National Council on Naturalization and Citizenship
MURRAY, Philip, President, C. I. O., represented by Allan S. Haywood
MUSSELMAN, Rev. G. Paul, Executive Director, Department of Christian Social Relations of the Protestant Episcopal Diocese of Michigan
MYLONAS, James C., Representative of the Supreme Lodge, Order of American Hellenic Educational Progressive Association

NADICH, Rabbi Judah, Jewish Community Council of Metropolitan Boston; the Boston Chapter of the American Jewish Committee; New England Region, American Jewish Congress; New England Region, Anti-Defamation League of B'nai B'rith; Hebrew Immigration Aid Society; Boston Section, Jewish Labor Committee; Dept. of Mass., Jewish War Veterans; Bridgeport, Conn., Jewish Community Council; Conn. Jewish Community Relations Council; Hartford, Conn., Jewish Federation; and the New Haven, Conn., Jewish Community Council
NAGY, Rev. Paul, Pastor of the Free Hungarian Reformed Church in Detroit
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